13.11 hrs.

COMMITTEE ON PRIVATE MEMEBRS, BILLS AND RESOLUTIONS

Fifth Report

[*English*]

SHRI RATILAL VARMA (Dhanduka): Sir, I beg to present the Fifth Report (Hindi and English versions) of the Committee on Private Members' Bills and Resolutions.

MR. DEPUTY SPEAKER: The House stands adjourned for lunch to meet again at 2.10 p.m.

13.12 hrs.

The Lok Sabha then adjourned for lunch till ten minutes past Fourteen of the Clock

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14.17 hrs.

The Lok Sabha re-assembled after lunch at seventeen minutes past Fourteen of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

STATUTORY RESOLUTION *RE*: DISAPPROVAL OF THE PUBLIC LIABILITY INSURANCE (AMENDMENT) ORDINANCE, 1992 AND PUBLIC LIABILITY INSURANCE (AMENDMENT) BILL

[*English*]

MR. DEPUTY SPEAKER: We shall now take up items 14 and 15 together — Statutory Resolution and Public Liability Insurance (Amendment) Bill.

Shri Lokanath Choudhury – Not present.

Shri Indrajit Gupta – Not present. Shrimati Geeta Mukherjee — Not present. Shri Sobhanadreeswara Rao Vadde – Not present. Now, Shri Girdhari Lal Bhargava may move.

[*Translation*]

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Deputy Speaker, Sir, I beg to move the following resolution:

> "That this House disapproves of the Public Liability Insurance (Amendment) Ordinance, 1992 (Ordinance No. 6 of 1992) promulgated by the President on the 31st January, 1992"

Mr. Deputy Speaker, Sir, my resolution is to disapprove of the Ordinance. I am submitting that the Public Liability Insurance Act, 1991 was enacted to provide immediate relief to the victims of accidents occurring while handling any hazardours substance. Under this Act the Government had provided that a prescribed amount would be paid as interim relief to the accident victims who handle hazardous substances as they are not responsible for the occurrence of any accident and it had also provided that every such person would have to deposit insurance premium. Since the principal Act did not prescribe the limit of amount to be paid and since the insurers did not cooperate at any stage, it could not be implemented. They said that they would not give an insurance policy for an unlimited liability. Hence it was felt that the liability of the insurance company should be limited to the amount of insurance policy. Although the liability of the owner will remain unlimited under this Act the insurance company will pay only insured amount. What I mean to say is that it has been provided in the Bill that the Environmental Relief Fund will be established with the extra amount collected from the person handling hazardous substances. The amount received as insurance premium and extra amount received from owners will be used for providing relief to the victim in case any accident occurs there. This is the sole purpose of this Bill. I understand tha aim of establishment of the Fund. The Government has explained definitions as also the limit of amount to be insured.

Besides this, the Government has said that the owner of an undertaking cannot transfer his property to another person. Suppose that somebody suffered a loss in an accident and if he wants to evade payment, he cannot do so. My point is that while the purpose of the Bill is good the Government should have brought forward the Bill straight away. It is not proper to get the Ordinance promulgated by His Excellency, the President again and again. My first objection is that His Excellency, the President should not be bothered for this matter again and again. This should have come through a Bill. The hon. Minister should kindly enlighten us about the objective with which he wants to move this Bill here. It seems that the insurance companies did not cooperate with him. Now, how much insurance will the Government get done through this? What shall be the aims and objectives of the Fund which they want to establish? In what manner the relief will be provided to the individual working in factory and will he be able to present property holders, the owners of the factory from transferring their property? When I get the answer to all these questions, I shall put my views. I support the disapproval of this Ordinance and put this resolution before the House.

MR. DEPUTY SPEAKER: Resolution moved:

> "That this House disapproves of the Public Liability Insurance (Amendment) Ordinance, 1992 (Ordinance No. 6 of 1992) promulgated by the President on the 31st January, 1992."

[English]

14.22 hrs.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONEMNT AND FORESTS (SHRI KAMAL NATH): Sir, I beg to move:

> "That the Bill to amend the Public Liability Insurance Act, 1991, be taken into consideration"

As the Members are aware, the Public Liability Insurance Act, 1991, was enacted with the object of providing immediate relief. There has been some misunderstanding with some of the learned Members. This Bill is limited to immediate relief, and not compensation, to the victims other than workmen of the factory in respect of accidents that might while handling hazardous substances. The Act provides for the owner who has control over handling hazardous substances to pay specified amounts to the victims as interim relief by taking insurance policy for this purpose. The interim relief would be based on no fault liability which means that the claimant for relief shall not be required to plead and establish that the disaster, injury or damage in respect to which the claim has been made was due to any wrongful act, neglect or default of any person.

The Act relieves the victims of approaching the courts and involving themselves in the litigation to obtain relief. .

As per the provisions of the Act, the units handling hazardous substances have to take insurance policies by 31st March, 1992. However, the Act could not be implemented on account of the General Insurance Corporation not agreeing to give insurance policies for unlimited liability cover as provided in the Act. Moreover, they wanted that the insurance should only cover chemical accidents and not any incident occuring in a factory as a result of which some persons

[Sh. Kamal Nath]

suffer physical harm. It was suggested that there should be a monetary limit on the policy so that the insurance policy is within the acceptable norms of commercial and financial prudence in respect of limits and financial cover. Inter–Departmental consultations were held to overcome this problem. It was the consensus that the liability of the insurance companies should be limited to facilitate the issuing of the insurance policies to the hazardous units. This was possible only by an amendment of the Act. Therefore, we have proposed to amend the Public Liability Insurance act, 1991.

The most important feature of the amendment is limiting the liability of the insurance companies and creating an Environmental Relief Fund to meet the residual liability for the relief of the victims at the time of an accident. It is proposed that the owner shall take insurance policy which shall not be less than the paid up capital of the company handling hazardous substances. Rupees fifty crores have been prescribed as the maximum limit.

In order to expedite payment of relief to the victims, a time frame for depositing the amount by the insurance companies is proposed to be fixed by the proposed amendment. This period has been limited to 30 days for the money to be deposited with the Collector of the District where accident takes place, by the insurance company. The Collector will ensure that the insurance company's maximum liability does not exceed the limit prescribed in the insurance policy.

We have visualised an eventuality when the claim amount is more than the insurance cover. For this purpose, I am proposing to create an Environmental Relief Fund which shall be administered by my Ministry. Every owner holding a policy shall credit a sum not exceeding the amount of its premium to this fund. This amount would be paid to the insurance company along with the premium and shall be deposited by the insurance company to the Fund. However, this would be only an immediate relief measure. The ultimate liability for meeting the total compensation shall be with the owner.

Another eventuality, which we have visualised, is the removal of transfer of property by the owner with a view to evading payment by him. We have proposed to restrict such a pre–empted action by the firm.

Some changes in the definitions have also been preposed to make them more explicit. "Occurrences" or "incidents" have now been excluded from the purview of "accidents" which is defined as any sudden, unintentional occurence. It was felt that the partners of any firm, members of an association and all or any of the Directors, Manager, Secretaries or other officials of the company responsible for handling chemicals should be treated as owner. The same is proposed in these amendments.

Sir, to make the implementation of the amendment effective, we have framed Rules in respect of the same and have framed a draft outline of a scheme for the Environmental Relief Fund which would be notified shortly after consultation with all concerned.

I would seek the support of the hon. Members of the House and would welcome and value their suggestions and comments.

With these words, I move the motion for consideration of the House.

MR. DEPUTY SPEAKER: Motion moved:

> "That the Bill to amend the Public Liability Insurance Act, 1991, be taken into consideration".

MR. DEPUTY–SPEAKER: There are amendments to the Motion for Consideration. Shri Girdhari Lal Bhargava.

[*Translation*]

SHRI GIRIDHARI LAL BHARGAVA (Jaipur): I beg to move:

> "That the Bill be circulated for the purpose of eliciting public opinion thereon by the 15th June, 1992."

[*English*]

MR. DEPUTY-SPEAKER: Shri Dau Dayal Joshi – Not present. Shri Prof. Rasa Singh Rawat.

PROF. RASA SINGH RAWAT (Ajmer): I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th June, 1992."

MR. DEPUTY-SPEAKER: The time allotted for discussion is one hour.

SHRI RUPCHAND PAL (Hooghly): This is a very important Bill and the time can be extended so that the Members can express their views. (*Interruptions*)

MR. DEPUTY SPEAKER: There are quite a number of speakers. The List is fairly and pleasingly big. Therefore, those who get the opportunity of speaking earlier, should keep in mind the convenience of the subsequent speakers also. I shall call Shri A. Cahrles.

SHRI A. CHARLES (Trivandrum): Sir, I stand to support the Public Liability Insurance, (Amendment) Bill, 1992 now brought before the House.

The amendment has become essential after one year of its passing. It has become necessary when the growth of industries has resulted in increase in the number of operations of hazardous nature and naturally it has increased the risk of accidents not only to the workmen but also to the very innocent people who happen to be in the vicinity of industries wherever they are located in the country. Even during the festival season, there are fire-works and crackers. These are all made both by the licensed and unlicensed persons. There are about 8,000 industries identified as hazardous. This number is increasing.

The Public Liability Insurance Act, 1991 was initiated in order to give relief to those who are involved in the accidents and who mostly come from the weaker sections of society.

Incidentally, I may say that it appears to me that the nature of the offence should have come under the tortoius law. But quite unfortunately, the law relating to torts is in the infant stage in this country. In almost all the developed countries, such Acts are not necessary because they get huge amounts as damages. The tortious liability arises out of breach of a contract primarily fixed by law. The contract is towards persons generally and it breach is redressable for an action for unliquidated damages. There is no limit to the damages to be given. In all the developed countries, even for minor accidents they get huge amounts.

There are very interesting cases. I will explain one interesting case. There was one lady in UK travelling in a train. She met with a minor accident and incidentally her lip dashed against a door resulting in a minor injury. She went to the hospital. She fully recovered just after a few days. But she said in a court of law that she met with an accident and this particular wound has caused huge damages to her and she said that she does not get the usual pleasure in kissing because her lip was damaged. The court accepted the plea and the huge amount was given as damages.

In our country, if a person has met with an accident and if he meets with death, the amount given is very nominal.

[Sh. A. Charles]

About a year ago, in Kerala some wrong medicine was administered to a patient in a Government hospital. Two person immediately died. The State Government gave Rs. 5,000/- each as compensation.

So, one thing that is not valuable here in this country is life.

I am happy that in this Bill sufficient care has been taken to give suitable compensation wherever necessary. That compensation should be given as expeditiously as possible.

In fact, in 1991 when this Bill was discussed in the House, some of the hon. Members have pointed out that the provisions of the Bill are not sufficient to give compensation instantaneously. They felt that there were some lacunae how the Insurance Companies would allow the Insurance Policies. All these doubts were raised then. But then the Minister said that everything had been taken care of. But it is now found that all the doubts expressed then have come true. I am glad that the hon. Minister has brought forward this legislation to rectify those defects.

Sir, while going through the Bill, I am happy that sufficient care has been taken to give the relief as expeditiously as possible. Some definitions have been changed, especially the definition "Owner". Those who own the establishment are now included. If this is not there, then it would have been a loophole for the real culprits to escape. Under the law possession is *prima facie* ownership. If somebody is in possession of these hazardous things, if some incident or accident happens, naturally he has to be held responsible. It is not that one who is in control above is responsible. The actual culprit must be the one who owns it. I think the enlargement of the definition is well in keeping with the purpose of this Bill.

Sir, so also the hon. Minister has well explained about the amendment to Section 4. Within 30 days the amount has to be deposited by the insurer. I appreciate this particular clause. Within the shortest possible time, the Company is made liable to pay it. But should point out one thing. Under Section 5(3), it has been stated:

> "The Central Government may, by notification, make a scheme specifying the authority in which the relief fund shall vest......"

This is the most important section of this amending Bill. I would like to know from the hon. Minister how long will he take to pass the subordinate legislation or the rules and to issue necessary orders so that the amount deposited by the insurer actually reaches the victim. All these exercises are made in order to see that the money. I reaches the victims. It is not that the Insurance Company should deposit the amount with the Central Government and that should remain there. I have a serious doubt about this. I am seriously concerned about this because in a number of cases it takes years together to get it doen because of the red_tapism. It takes years together for the subordinate legislation to be passed. So, there should be a time–frame here. It may be three months or six months. Within that point of time, necessary orders should be issued by the Central Government. There also, there should be a stipulation that within 30 days of the receipt of the amount from the insurer, it should actually be given to the victim. If not, the purpose of the whole amendment will be lost. So, I think the hon. Minister will appreciate my views in this regard. While answering, he will certainly ensure that the legislation would be passed within the time–frame and also the relief would be extended to the real victims also within a particular time–frame.

I come to the next point. To determine what exactly is the accident, its scope has also been enlarged. That also covers another major difficulty here. So, I think the Bill that is before this House has been well-drafted and it takes care of the weaker sections. I have one thing to say. Even in 1991 when the parent Act was being discussed, many hon. Members pointed out that there were the casual labourers, contract-labourers etc. and they were not being covered by this Act. Of course, the Workmen's Compensation Act is there. I think all the unorganised labourers who are also the victims of such accidents should also be taken care of.

With these words, I support this Bill.

SHRI V. DHANANJAYA KUAMR (Mangalore): Sir, I do not understand whether to welcome the measures proposed now or to oppose it for the simple reason that before the provisions of the original Act passed in the year 1991, could be implemented the Government had to come up with so many amendments to the Act. The original Act itself contains 23 sections and we see a number of amendments being proposed through this Bill.

The Minister has been bringing to the notice of the House that tha Act provides for immediate relief to the victims in the case of accident occurring while handling any hazardous substance. But we see that not only an immediate relief should be granted but an adequate relief is also to be granted. Apart from this provision, we find no other provision for claiming a relief in such cases wherein a third party who is not engaged in the manufacture of such hazardous substance is involved in an accident and becomes a victim.

The present amendment proposes to limit the liability of the insurance company. I do not understand the approach of the Government in this regard for the simple reason that in the Schedule of the original Act, the amount of relief that would be granted is fixed. In the case of fatal accident, the relief will be Rs. 25,000 per person in addition to the reimbursement of medical expenses, the limit for which is again fixed up to a maximum of Rs. 12,500. This provision of granting relief to the victims in the case of such accidents would be very well compared with the provisions in the case of third party risk involved in a motor accident. In the case of motor accident also, originally, there was a fixed liability cast on the insurer. But in view of the pronouncement of the Supreme Court, the Government had to come up with an amendment to the Motor Vehicles Act itself making the liability of the insurer unlimited in the case of third party risks.

The insurance company after all is a creature of a statute. I do not understand why the Government should take keen interest in agreeing to the request of the insurance companies to limit its liability for payment of relief to the victims. Now the liability cast on the owner, as contemplated in the original provisions of the original Act itself, would remain unlimited Naturally, a doubt arises as to how the balance of the relief amount granted could be recovered from the owner unless a full insurance cover is made. Of course, a provision is being sought to be introduced to grant an order of temporary injunction preventing or restraining the owner from indulging in the acts of removing or disposing of his property, with the object of avoiding payment immediately after the accident. But has the Government considered whether the value of the property that would remain in the hands of the owners would be adequate to meet the relief that would be granted by the collector?

Sir, in the case of motor accidents wherein so far as three parties are concerned, the insurer has to bear the unlimited liability and in such cases the insurance company fixes the premium to be collected from the owner. Then, why not in this case also, such a provision be made and a fixed premium collected from the insurer that is owner? Instead of that, we find a provision, that is, that a separate fund is being created which is called as "Relief Fund" and the

[Sh. V. Dhananjaya Kumar]

insurer will have to pay the premium to the insurance company; he will have to make an equal contribution to the Relief Fund also so that, at best, the relief that would be granted is such that on the one side the liability is limited so far as the insurance company is concerned and we can expect an equal amount to be received out of this Relief Fund. So, in a way are we not imposing are straint on the collector in rewarding the relief? That is, a signal is given to the collector saying that the liability of the insurer is so much and equal amount is available in the Relief Fund and you should not grant more than what is contemplated. And even if he grants, there is no provision how to recover the money from the owner. We are just satisfied or we are asked to be satisfied with a provision saying that the liability of the owner is unlimited. But we know that the moment the owner is landed in such a liability, when he is placed in such a circumstance, naturally he would try to avoid; he would say that whatever I had, I have already pledged to the insurance company or that I have already contributed to the insurance company, and that I have made an equal contribution to the Relief Fund due to which I am restrained from selling my property also; so where from I should get the money? In such a case, are we not driving the victims again to the Courts, begging for the adequate relief?

So, the Government with enormous powers would very well direct the insurance company to have an unlimited power and meet the relief, whatever is granted by the collector.

Sir, as our senior colleague, Shri George Fernandes was making a mention just yesterday, while he was speaking on the other Bill, that is, "The Destructive Insects and Pests (Amendment and Validation) Bill", that we have opened up for the foreign multinationals and we expect more and more foreign nationals to come here and invest. At this juncture, we are remained of the Bhopal Gas Tragedy. So, whenever, we make a provision, these should be the guidelines. We should keep all these things in mind and when there is a chance of such hazards, more and more people becoming victims of such hazards is on the anvil. Should we not make provisions for giving the minimum relief which is also the ultimate relief? Such relief should be adequate relief. Actually I do not know whether we are making a mockery of the legislation making power of the Parliament. Before the Act which was enacted in the year 1991 could be implemented, the Government had to come up with so many amendments because the provisions of the Act could not be implemented for long.

So my submission is, even at this stage it is not too late for the Government to make a rethinking on the whole issue and make suitable amends, so that the relief that is due to the victims is properly compensated and adequate relief is granted.

MR. DEPUTY SPEAKR: Your melodious voice has taken many hon. Members to meditation!

SHRI V. DHANANJAYA KUMAR: It is the sumptuous meal provided by the hon. Railway Minister that is responsible, Sir!

SHRI RUPCHAND PAL (Hooghly): Mr. Deputy Speaker Sir, a little more than 14 months back when discussions were taking place on this original Bill, which became the Act subsequently, there were great doubts whether it would be possible at all to implement it, whether the insurance companies would be agreeing to that. It was said at that time by the Minister that wide consultations were taking place at all levels, including the General Insurance Company.

Only a few days back we found from a statement from the Chairman, GIC, Shri S.V. Mony, which has come out in the Economic Times that the General Insurance Company would have a windfall of at least Rs. 125 crores every year as a result of the amendments to the public liabilities insurance. He has also said that as many as 1.5 lakh insurance policies would be issued by the deadline of 31st March 1992. That is the profit that is going to accrue to the GIC.

A very significant remark which acquires greater significance in the context of the liberalisation that is taking place, in the context of the pressure that is being exerted on the question of our acceptance of TRIMS, TRIPS and GATTS is that it may be recalled that GIC is advised to issue policy against the Act which was adopted by the Parliament last year. It was asserted that unlimited liability could not be under–written by international insurers and therefore they asked for relief with prescribed limits. That is why the Government has come out with amendments to the Bill as claimed by GIC limiting the liability to Rs. 50 crores.

You know the recent statement made by no less a person than the Chief Economist of the World Bank Mr. Lawrence Summers with whom we have contracted the structural arrangement. He has stated that the dirty industries belonging to the rich nations should be shifted to the third world countries. There is no protection. What has happened is that even after the great disaster of the Bhopal Union Carbide we have not learnt any lessons. Even the other day there were reports from Udaipur, Rajasthan about H'acid which is used for dyeing purposes. Most of the dyeing industries are shifting their H'acid producing units to third world countries and a large number of them are in our country only. The underground water, the river water and all sorts of drinking water have been poisoned permanently and the people who are drinking that water are led to slow deaths. This is coming at such a time when great caution should be taken about what this Government means by this 'limitation'. The Government means to say that this will provide immediate relief. What is the experience of the poor people who had been the victims of Union Carbide factory? It has happened in 1984, seven long years or about eight years ago. Only 200 rupees per month is given, that too for a limited number. Thousands of them had died; hundreds of thousands of them had been permanently disabled and nothing has come out. But, now in a big way, the multi–national companies are coming in. In the background of the statement of Lawrence Summers, all the dirty industries are coming in.

Sir, very recently, the World Bank has become not only market–friendly, but also it has become environment–friendly. I congratulate our Minister. We failed to congratulate Shri Manmohan Singh for the steps he has taken to open up the room, to open up our economy. But, he has taken a stand, till now it is there, that the Montreal Resolution or Protocol that is very much biased in favour of the rich nations. Only the other day, in the gathering of NGOs from South Asian countries......(*Interruptions*) Sir, I think what has come out in the Press is true.

> "South Asian countries, to discuss the forthcoming UN Conference on Environment and Development (UNCED) shared one thing. An acute sense of outrage against the way and inherently moral concern like the environment was in use, to further the commercial and political interests of the rich".

It is heavily biased. I am giving you only one example. When Bangladesh proposed to set up–a poor country, a Third World Country – a thermal plant, it has been said, "No. World Bank, you cannot give them any loan, because it will pollute the fly ash, the environment". Then, the Bangladesh Government said that through your consumption pattern, by your production of carbon–di–oxide, you will pollute the environment, heat up the atmosphere, as a result of which the sea level is going to rise and as a result of which, the international experts say, there will be nothing like Bangladesh after a few years. It will totally submerge.

[Sh. Rupchand Pal]

But, there is no one to listen to that voice. We, the Third World Countries are becoming the victims of the consumption pattern of the rich nations

I am mentioning all these things because the multi-nationals are coming in a big way. All the hazardous industries will come up. Right now, we have about a little more than one thousand such chemical industries and more than one-third of them are hazardous. I am not mentioning about the small ones like Sivakasis, where small children are working and face a lot of difficulties. They die and they are killed. In the diamond polishing factories also, they become blind permanently. In the Carbon factory, in the glass factory, there is no law to protect them. They are not covered by the Workers' Compensation Act.

If this Bill is passed now, then the multi-nationals will come and shift their dirty industries in the country like India with only Rs. 50 crores. But their per capita will be much more than that — several times more than that amount. So, why should you limit that? After the experience of Union Carbide incident, you should never agree to that.

15.00 hrs.

Moreover, they want to share the latest technology for environmental control and ecological balance. They will have their own technology. They will dump the obsolete technology. They will be doing all these things only for their profit. Let me remind all of us one thing that when an air passenger dies in an air crash, you pay him Rs. 5 lakh. In a railway accident, you pay Rs. 2 lakh. When a poor man, who has no hold on his own, is killed because of the hazardous industry, you are limiting the liability. Why should you limit the liability? You are not limiting the liability in other cases. General Insurance Companies have been making so much profit. I think, the Government should listen to all these things. I believe that adequate provision will have to be made to give immediate relief. I do not know whether he is contemplating any other comprehensive Bill but the shifting of dirty industries is going on.

15.01 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Several multinational companies are producing all the hazardous substances – sometimes surreptiously. Who knew what was being produced in Bhopal? Who knew it that the gas that was used by Nazi Germany was being produced here for some other purpose. What was being produced to kill the pests, was also used for killing human-beings. When human beings are killed, there is no adequate relief. There is no provision for prevention. I think in the background of the liberalisation, in the background of the demands of World Bank, IMF and GATT, in the background of the philosophy of the rich nations to shift the whole onus of their consumption to the Third World has been stated.

May I mention that in the South Commission, the Secretary-General was Mr. Manmohan Singh? There he stated categorically that the South should take care, the South should unite and protect themselves in the face of this new onslaught on environment. With these words, I request the Hon. Minister that he should bring about necessary changes. I oppose that provision of limiting the liability to Rs. 50 crore. I demand that it should be an unlimited liability as it happens in the case of others. It may be true that small industries will not be able to do it because their paid-up capital is limited. But the multinational companies are coming with larger amount of paid-up capital. Why should we limit it to Rs. 50 crore only. With these words, I oppose the Bill.

SHRI PRAFUL PATEL (Bhandara): Mr. Chairman, Sir, I rise in support of the Public Liability Insurance (Amendment) Bill, 1992.

As we are all, aware with the rapid pace of industrialisation, a lot of new industries are coming up which are causing a grave danger to our environment as well as to he health and safety of our citizens. Time and again, we have seen many accidents take place not only in the bigger cities but in all parts of the country. It is also a fact that those industries which have come up for the past so many years, we cannot ensure that these industries be shifted to remote and far areas. At the same time, it is also a known fact that for any progress in our country, as far as industrialisation is concerned or for the upliftment of our society or for the welfare of our citizens, new industries will have to be set up. And with the advancement of technology, there would be certain hazards which industry may cause to the people in general. But in the past, as far as our country is concerned, many accidents had taken place and as a result of them, not many people have been able to be benefited by any kind of timely or suitable relief. The Government, about a year ago, enacted the Public Liability Insurance Bill, 1991. But as a result of this enactment the insurance companies ran into a lot of problems which necessitated the Government to bring in this amendment bill. We may debate a lot as to whether this amendment is necessary or not. I have been hearing some of our friends speaking that the liability should not be restricted to Rs. 50 crores or to the paid-up capital. The basic theme of this amendment has to be understood and taken in the right spirit because although the bill was actually been brought into force, no insurance company in our country was willing to go in for public insurance liability so far and there are so many reasons for that. It is because the nature and the structure of our insurance companies in our country is very very different from those insurance companies operating in other countries. That is why, inspite of the legislation, no industry was covered under this legislation or insurance liability.

Now, the basic point which has to be understood is that this is a public liability insurance. Of course, for the welfare of workers, we do have our regular legislation like the Workmen's Compensation Act where the workers or the victims of accidents can get their legitimate claim or whatever rights. This does not mean that the workers working in those factories, where accidents might take place, will not be covered under those separate legislations. But at the same time, what we fail to understand is that this environmental relief fund which is sought to be created is only a kind of an interim relief which the people who might be suffering from accidents would otherwise be deprived of now. That does not bar them from getting relief from any other legislation or going to the court and seeking suitable compensation for the loss which has been caused to them. As we have seen in the Bhopal gas tragedy and several other accidents, people make a lot of uproar saying that they have been suffering and that they have not been given their legitimate claim by the Government or by the company or any other agency. But that is definitely going to be the case because there is no suitable legislation or suitable agency which can fix the interim relief and hand it over to the victims. Hence, the basic theme of this amendment bill is to create an environmental relief fund which would only act as a kind of an interim relief to those people suffering from accidents. At the same time, the insurance part of this is that the liability shall be restricted to Rs. 50 crores. Now, there would be lot of problems in this also because any company which is dealing with hazardous chemicals cannot just go in for an insurance cover of Rs. 50 crores. There may be a small unit having a paid-up capital of, say, Rs. 10 lakhs and a turnover of, at the most, Rs. 50 lakhs and if that company is also dealing with hazardous chemicals, then that company cannot go in for a cover of Rs. 50 crores because the premium itself would be probably more than the paid-up capital of that company. Let alone liability part. We are just talking of the premium part of it. So, some kind of a suitable mode will have to be found out by the Government where the insurance compa-

[Sh. Praful Patel]

nies and the Government can sit together and work out some feasible scheme which can be implemented fairly. So, I would request the hon. Minister basically to give some incentive or encouragement for the smaller companies which would not be in a position to pay the premium for an unlimited liability of Rs. 50 crores or paid–up capital of Rs. 10 lakhs or so. For them, Rs. 50 crores is unlimited. You may find out some ways where small companies having a paid up capital of Rs. 10 lakhs or so, will also have some incentive to go in for this kind of insurance scheme.

As far as the basic structure is concerned, I would like to say that certain definitions which were very vague, are now made more precise. Earlier, the definition of an accident was very vague. Also, the definition of the people who are the owners and who would be held responsible for accidents was also very vague. Because of the vague definition, a lot of people were not held responsible directly. With this new legislation, the definition, of those who are directly involved and who can be prosecuted for any kind of offence, is made very clear. I am sure that this will help the workers a lot because the onus is now on those people who run such hazardous factories, and those who are engaged in similar activities and they would be forced to go in for this kind of insurance cover. Therefore, I fully support the Public Liability Insurance (Amendment) Bill, 1992.

I would also request my friends on the other side not to have any fears with regard to multi–national corporations. They are afraid that the multi–nationals are coming and invading the country. That seems to be standard phrase nowadays, for anything that is being done by the Governments. Even in their own countries such as USA, where the multi–national corporations operate, some accidents do take place. It is not necessary that when they come here, they would be coming only with an intention of creating accidents and causing injury to our people. That kind of a fear is unwarranted. We should have a right approach. For the first time, we are having a legislation which is going to give at least some kind of relief to the workers who have been suffering for so many years. Therefore, we must support it with a positive attitude. After achieving success in this regard, I am sure that the Government will think of further ways of strengthening the system in future so that the workers, the poor and common men will be benefited by this kind of a legislation. Thank you very much.

SHRI BOLLA BULLI RAMAIAH (Eluru): The Public Liability Insurance Act which was enacted in 1991 is now sought to be amended with some modifications. It is suggested that the present modifications are mainly to take care of the extra liability for providing immediate relief to the victims of accidents which might occur while handling hazardous chemicals. This is to take care of the compensation that is required to be paid when death or injury is caused due to accidents that may occur while handling hazardous substances. Probably, this may be an afterthought of the Bhopal Gas Tragedy, where the real insurance cover has to be substantially increased in order to take care of such problems.

As mentioned by an earlier speaker, the insurance cover requires substantial amounts on safety factor. But it should not be beyond the capacity of the industry which handles this sort of hazardous chemicals. There are so many chemicals which are required in pharmaceutical industry which manufactures life saving drugs. We cannot avoid those things. At the same time, we cannot formally provide such high insurance cover. Paid up capital of the industry, market value and so many other things are mentioned. But whatever it is, the premium itself is going to be so big and it is going to pose a big problem. There must be some reasonable justification. You must take into consideration factors such as the type of industry, the size of industry, the type of accident and the type of chemicals that are handled, etc.

The Environment Relief Fund, which they want to create is very good but I would say that Government should also contribute something to this Fund, as they are doing in the case of rail accident or road accident or any other such accident. Government should also take the responsibility by contributing to this Fund because almost all the industries are contributing substantially towards the excise duty, sales tax and income tax.

Then, the risk covered the insurance scheme will take care of other problems. Under Section 7 (a) it has been provided that the insurer is required to pay any amount in terms of such award within a period of 30 days of the announcement of the award, So, this depends upon the insurance company how quickly they make arrangement for this. The owner of the factory, industry or any other corporation should follow the guidelines given by the Government. I would say that the Government should make reasonable guidelines and the cost of production should also be included as a part of this amount. So, if you can accommodate the cost of production, it is a very good thing.

More than anything else, I would suggest that the Government should take the initiative to provide training with regard to prevention of such accidents. A training should be given as to how to handle such hazardous materials and how to prevent such accidents from being taking place. Then even in spite of all this, the accidents may occur due to the power failure or due to the fault of the workers. Whatever it is, both the Government and the management should take the responsibility. We cannot say that the management is solely responsible for the accident. The insurance company also cannot give us a lower premium. Unless a part of it is contributed by the Government, it will not work, and the chemical industry will face so many problems.

Today, in spite of the fact that we take so many safety precaution accidents are taking place. Same is the case with other countries. In France about 60 to 70 per cent of power generation is from the Atomic Power Plant. Besides this we have other industries like the pharmaceuticals, plastics and so on which are quite essential for our livelihood. Similarly, in the field of agriculture, pesticides and insecticides are very essential. We cannot avoid them. I would say that if you want to provide for Rs. 50 crores, it is going to be a very big amount. I hope you will reconsider it and readjust it on the basis of the capacity of the plant. I hope the Government will take care of this problem.

[*Translation*]

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Chairman Sir, first of all I would like to know from the hon. Minister whether this law has ever been implemented by the Government or not? As per my feedback, till now no date has been decided upon for the implementation of this law by the Government and despite that the Government has come up with an amendment in the House. So all this compels us to raise doubts on the sincerity of the Government.

The hon. Minister has stated in his statement that.

[*English*]

The Act could not, however, be implemented on account of the insurance companies not agreeing to give insurance policies for unlimited liability of the owners."

[*Translation*]

This raises two questions. I am taking it for granted that the law has not been implemented because it has been stated that

[*English*]

> "could not however be implemented."

[Sh. George Fernandes]

[*Translation*]

The first question that arises is about the importance being attached to this august House by the Insurance companies. To my mind violation of any law passed by this august House or refusal to not to adhere to any law, whether date for its implementation has been decided upon or not, by any Government organisation or any other organisation, directly means contempt of the House. I would like to know from the hon. Minister whether the issue has been pondered over or not? All the aspects connected with the amendment of this law be debated upon in this august House. Thout the law was passed by both the Houses of Parliament, but the hon Minister has come before the august House with the statement that.

[*English*]

> "The insurance companies are not agreeing to give insurance policies and therefore, I am coming before the House to amend this law."

[*Translation*]

So what is the sanctity and importance of this august House and Parliament. How can the General Insurance Corporation dare to say that it does not care for this law. What was the reason that GIC had refused to implement this law and had asked the Government to get the amendment.

[*English*]

SHRI A. CHARLES: Your Government had passed it in 1991. At that time, you were the Minister and you passed it.

[*Translation*]

SHRI GEORGE FERNANDES: Keep one thing in mind. The Government has no definite shape. Formation of Government is a peculiar phenomenon in which any person - whether I or you can become a Minister. There is no certainty in regard to the policy a particular Government may follow.

[*English*]

SHRI RUP CHAND PAL: At that time, it was Mr. Chandra Shekhar's Government which was supported by you.

[*Translation*]

SHRI GEORGE FERNANDES: This Act was passed in 1991 and our Government was out of power in 1990. Thus it is unmaterial as to who was in power. The question is that this House has passed the law. At that time perhaps you may be here and we may be there, rather you as well as that Government may be there and we may be here. And, not only this House, but the other House also passed the law. In view of it, how can this law be discussed here today. General Insurance Company refused to obey the Parliament. Therefore, the hon Minister proposes an amendment in this law. I would like to raise this significant matter before you. We would like that a definite view should be formed here in this respect.

When I was called, I was in great difficulty. I did not want to speak on it because I had viewed it casually and I had doubts in my mind. But when the discussion started it was essential for me to participate in the discussion. Therefore, my submission is that I am not at all ready to relate this House to this law. I would urge the hon. Minister that it won't do merely by thinking over the matter. He should not include himself in disgracing the House as it is being done by bringing this law here.

The other side of the matter is that the GIC does not work under Tata or any other multinational company. GIC is run by Finance Ministry and the matter comes under the auspices of Finance Ministry. Had it been proposed by a business man, it would have been a different matter. In that condition the House would have been displeased and also have had challenged Birla and Tata. But here the matter is related to Shri Manmohan Singh, the Minister of Finance. Generally a Chairman of a company cannot directly refuse to accept. They must have conveyed their opinion to the Ministry of Finance, Which in turn, would have advised him not to bother about the matter at all by saying that everything has changed now, it is a new era, old laws are of no value any more; we are burrying our 40 years old policies, how can we obey these laws. Hence, comes the issue of the Ministry of Finance. Perhaps the hon. Minister of Finance must have developed a misconception that nobody would dare to challenge him. But the question is that the House is being disgraced and we would not spare anybody for this at any cost.

Our able friend Shri Charles submitted that Shrimati Maneka Gandhi was the Minister of Environment in the Cabinet of Shri Chandra Shekhar. (*Interruptions*) Delivering the last speech on this Bill she has stated that

[*English*]

This is on page 597 of the Lok Sabha proceedings dated 7th January, 1991–

> "I am grateful to the hon. Minister who have given their valuable suggestions. I hope these suggestions will help us."

Leave it

> "We had held intensive discussion over the last three years with the General Insurance Company and other associations. The Bill is based on the scheme determined by an Expert Committee. It will be our endeavour to make the scheme going so that immediate relief could be provided to the victims."

[*Translation*]

I would not like to go into the details as to how the discussion can be held on this law. He is guilty of what is being done in various industrial units, what is being done in and outside Kota Nuclear Plant or at other places of the country. They are quality of all these mishappenings and want to get rid of by providing a meagre amount of Rs. 25,000/– to the victims.

There is a provision in the law that this law is not applicable to the Government factories and the Government can exempt itself from the provisions of this law. It is evident from this provision as to how much serious the Government is to implement this low. Leave the matter of other places aside, the Badarpur Thermal Power Station and Indraprastha Thermal Power Station are largely responsible for plluting the environment of Delhi by ejecting about 300 tonnes of coal dust everydat. If not others, at least the hon. Minister is cretainly aware of the fact. Those who have gardens of their own, may realise the fact if they see the coal particles lying in their gardens. It is also visible when the people clean their throat in the monring. The elder people can tolerate all this. But what will be the life of the youngers in the metropolitan cities like Delhi. Will anybody assess what will the their condition? It is a matter of fact that people inhale coal dust which is being spread by these plants in the entire city.

SHRI VIJAY N. PATIL (ERANDOL): Electrostatic precipitator has been installed there.

SHRI GEORGE FERNANDES. Where is precipitator, ther has been no improvement in the city in the reaspect. (*Interruptions*) It may be true but the facts cannot be denied. Therefore, I do not think that it is a law worth apprecialile. We would not like to go into the discussion that the imposition of this law would bring about a revolution.

[Sh. George Fernandes]

I would like to raise a basic issue. Mr. Chairman, Sir, you are a well experienced person and have presided the sittings of the House for several years/ You held the post of Speaker in Maharashtra Legislative Assembly and in my opinion no other Members knows more about the rules and procedures of the House than you know. You have the complete knowledge about the matters of contempt of the House or the Privileges of the House. Therefore, I would like to submit to you that when the Goveral Insurance Company has refused to obey the law enacted by the Government, you are the person who can safeguard the dignity of the House. We would like that you should postpone the discussion being held on this law immediately and direct the hon. Minister to take measures for the effective implementation of the law which we passed earlier. If at all, amendments are required then the Ministry of finance and your Ministry of should discuss the problems and then only the matter. Can be discussed in the House. Otherwise, Mr. Chairman, Sir, I think that there has been no example of such a disgrace to the House as has been done by the General Insurance Company which has refused to obey the law in writing and the hon. Minister has brought it here in the House.

[*English*]

SHRI VIJAY NAVAL PATIL: Mr. Chairman, it is true that some lacunae were loft in law in the Act passed in 1991 and some difficulties were expressed by some insurance companies.

SHRI GEORGE FERNANDES: What about your ruling?

MR. CHAIRMAN: What ruling can I give? If you want to raise any question of contempt of the House, raise it according to the rules. This is not the way for raising it.

SHRI GEORGE FERNANDES: There is a law that has come. The Minister says that because the insurance companies are refusing to accept it this amendment is needed.

MR. CHAIRMAN: The law is before the House for the last two or three days. If you want to raise it, raise it according to the rules.

SHRI GEORGE FERNANDES: I am now raising it. I will give you a formal letter.

MR. CHAIRMAN: That is not the rule.

SHRI GEORGE FERNANDES: This House is absolutely sovereign in so far as its authority is concerned.

MR. CHAIRMAN: It is sovereign. It follows the rules.

SHRI GEORGE FERNANDES: You are the protector of the dignity and the autonomy and provileges of this House. If this House is told by the General Insurance Company that it cannot implement the Act, what is to be done?

MR. CHAIRMAN: I can protect you, provided you proceed according to the rules.

SHRI GEORGE FERNANDES: I will give you in writing.

SHRI VIJAY NAVAL PATIL: Mr. Chairman, the General Insurance Company expressed some doubts and its inability to pay compensation to the victims of accidents provided in the Act and to have enough safeguards to give proper insurance cover also. This amendment has been brought for this purpose.

. We all know that the word 'hazardous' is associated mainly with petro-chemical industries. We have seen that after polluting Denube in Europe, the European countries – specially Germany – are coming in a big way with joint ventures for having petro-chemical complexes in India.

In Thane belt of Maharashtra, many chemical industries are coming up. The people have approached the Supreme Court under public interest litigation to stop the swarming of these industries in that area because these are hazardous industries and there is a likelihood of accidents.

Mr. Chairman, Sir, when the accident takes place, it takes years to fix the liability and the quantum of compensation. And that is why, after the Bhopal tragedy, it took several years even for the Supreme Court to arrive at the final decision. That is why, this Act was passed in 1991. Now an amendment has come to that.

I would like to suggest that the Law of Torts needs to be codified and absolute and strict liability are defined in that.

The Supreme Court in Shriram Fertilisers case, while giving its judgement has laid down the principle of liability that there should be no defence available for contributory negligence. That is the main principle enunciated there. We know that whenever south accident takes place, it is the weaker stratas of the society who are affected and to a large extent they are the vicitims of this. And whether it may be the accident of oil tankers at Raniganj or toppling of a road tanker carrying chemicals at western highway near Bombay, it is the tribal people, the weaker section of the society, who are the victims to this.

Mr. Chairman, Sir, I would have been glad if an amendment for increasing the compensation has been brought here along with this amendment. The amount of compensation Rs. 25000 or Rs. 10000, is very small. Earlier it was discussed in 1991 in regard to the formation of Advisory Committee. Whenever the Advisory Committee is formed for determining the insurance liability, only the Officers of the Central Government are representing in that Committee. A suggestion was made earlier...(*Interruptions*)

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI KAMAL NATH): Which committee are you referring to?

SHRI VIJAY NAVAL PATIL: As per Clause 21 of the Act, Advisory Committee has to be formed. That is provided in the Act. It consists only of Central Government Officers. I would like to suggest that some officers and representatives of the State Government should also be included in that Committee.

This is not going to help in its full form. We have to take other adequate safeguards also. The Government has to consider a point as to what should be the distance of a hazardous chemical industry specially from a town or a metropolitan city; whether it should be 50 miles or 100 miles. We are a very big country. Ours is a subcontinent. We can carry the gas pipeline from Bombay High to Jagishpur or from Hazira to Mathura and onwards. So, if we just decide that such industries should be near the forest, near the jungles, where there is very less habitation, then there will be very less chance of people, men and animals falling victims to any accident that take place. That I consider is an important suggestion. There is on industrial area coming up near Kurkumb, sixty miles away from Poona and about 250 miles away from the metropolitan city of Bombay. So, the chemical industries can go there. They should not be near Ankleshwar, near Surat or in Wapi where there is dense population and which are surrounded by other industries also.

I would also like to suggest that the time is ripe now to consider whether we should go in for very big petro-chemical industries where, if an accident takes place, the loss is in crores of rupees and where people die in hundreds and thousands. In such cases we have to see whether the upper limit of insurance which is Rs. 50 crores, is going to help.

Of course, the General Insurance

[Sh. Vijay Naval Patil]

Company has suggested that one-time compensation should not be more than Rs. 2.5 crores and the total compensation in a year should not be more than Rs. 5 crores, but I understand, the Government has suggested that one-time compensation should be about Rs. Five crores and the total compensation for the year should not be more than Rs. 15 crores. According to the calculation, the General Insurance Company is going to get a premium of about Rs. 125 crores if all the industries abide by the enactment and pay the premium by the deadline fixed, that is, 31st March, 1992.

Under these circumstances, I do not agree with Shri George Fernandes that this is a contempt of the house. It was a real inability expressed by the General Insurance Company. The circumstances that existed, needed an amendment in the Act. That amendment is rightly brought here and it has to be supported by all sections of the House so that whatever is stipulated in this Bill, that is, the target date fixed for these industries to pay the premium and take the insurance cover, can be achieved.

With these words, I support the Resolution and thank you for giving me the time.

[*Translation*]

PROF. RASA SINGH RAWAT (Ajmer): Mr. Chairman, Sir, our colleague Shri George Fernandes has raised certain Constitutional objections regarding the Public Liability Insurance (Amendment) Bill. Of course, these objections require Government's consideration as to why the Government itself could not impress upon one of its Departments to follow the conditions of the resolution which has been passed by the House, the supreme institution of the nation. Was this issue presented before the Cabinet? Is so, the questions arise whether the Minister of Finance was consulted in this regard whether officers of the General Insurance Companies had been examined in this connection. A period of more than one year has passed when this law enacted. Some accidents might have definitly occurred during this period and the victims of those accidents would have been deprived of the benefits of the environmental relief funds. If this Act would have been implemented properly, they might have got compensation etc. Therefore, in my opinion, the Government should consider it seriously and in future also, whenever the Government brings any such bill, it should consider it deeply before introducing it, so that the Government may not face such an embarrassing situation as it is facing today.

I support the spirit behind the proposed amendment in the Public Liability Insurance Bill, 1991. This Bill was brought with a view to provide immediate relief to a number of people affected from accidents on such places who were engaged in carriage, moulding and handing of such items. A decision was taken to control the accidents and to provide a prescribed amount to the affected persons and it was also made obligatory for the owners of the companies to take Insurance policies for such purposes, but they did not take the Insurance policies because the Insurance companies raised some disputes. This Amendment has been made to remove this shortcoming. According to it, the liability premium of the Insurance companies has been limited and the liabilities of the owners have been made unlimited.

Mr. Chairman, Sir, I would like to state that the liabilities of the Insurance companies should also be made unlimited. I have reasons in support of my contention. Suppose some serious accident occurs in a small factory while moulding and handling such items and the owner of the factory is not in a position to provide any compensation, or immediate relief or interim relief to the victim, then how the compensation can be recovered from him. In such a situation, therefore, I would like that the Government should seriously think over the issue of limiting the liabilities of the Insurance companies to the limit of the premium. In the event of such accidents, it should have to be considered as to what were the ciroomstances, the nature of the accidents, the reasons, of the accidednts, the situation of the surroundings, the number of persons living in the victinity, the number of persons affected or killed not only inside the factory but also outsid it due to the accident. All thsese factors must be taken into account.

Mr. Chairman, Sir, we have not still forgotten the Bhopal gas trageday. Even today, these thousands of people state demonstation at Boat Club every year at the anniversary of the Bhopal Gas tragedy because the people could not be able to get adequate relief. We are grateful to the Supreme Court whose verdict has helped the victims in gettin some relief. Otherwise, the Union Carbide caompany had mde every effort to deceive the victims and if the company would have succeeded in its attempt to deceive the victimsm, it would have been unique incident in the Indian hidtory. I would like to point out to the Government that even today, there is a close relation between Insurance and Compensation in the country. The factories owners do not bother about any accident, because they think that their factories are accident proof and even if any accident takes place, they will get insureance claims in the shape of compensation. But even crores of rupees cannot revive those who loss their lives in accidents. The compensation cannot take the place of a husband for a wife, of a father for a child, of the only earning member for a family. This should be considered, seriously as to as to who are responsible for these accidents, why such accidents occur and whether these accidents can be controlled.

Mr. Chairman, Sir, I would like to point out that there is a close relation between industrial security restrictions and management. Negligence on the part of management can out do all the significant production, and the huge profit of a factory. Unless proper security is provided to the workers, They may be victims of the accidents. It also affects the health of the people living in the nearby colonies. In this way, earning huge profit is totally immaterial. Therefore, it is very essential to pay attention to these three things. It must be taken into account as to how the security can be maintainde, how environment can be made healthy for the labourers, how their lives can be protected and what arrangements have been made so far in this regard. Otherwise the payment of the premium of the Insurance, amounting to Rs. 25,000 only, will not compensat the loss of the valuable life of man. How can a small child of the victims be able to meet this expenditure upto the age of 18? What will be the future of the family of a victim who has a big family or who died leaving after him various sorts of huge loans. What will be the lot of those innocent persons who lived only in vicinity of the factory and did not work in that factory. Sir, I therefore, would like to state through you that it is a wise step that the Government has fixed the environmental relief under the public liability Insurance. No doubt, it will provide relief to them, but, will the bureaucrats of the Insurance companies or the Collector issue orders for this purpose? In the circumstances, the Government should keep more rights with it so that it may be able to provide relief to the affected person without any delay. The affected persons should not face the vaguries and redtapism of bureaucrats, corruption and briberies. The officers of the Insurance companies do not pay any attention unless they are given bribes. Such a situation should always be avoided. It is the duty of the Government to keep a close watch on it. Only the enactment of law will not serve any purpose. To esure the proper implementation of law is also the duty of the Government.

Emphasis should also be made on taking steps to contain accidents in industries. Sir, according to survey conducted in India, there are 641 such industrial institutions in the country as are still in the grip of danger. At any moment, accident may happen there.

[Prof. Rasa Singh Rawat]

In order to avoid such accidents, no measures have yet been taken at all. There is a lot of negligence and laxity in this regard on the part of the management. The Inspectors or the inquiry authorities sent on behalf of the Government are given bribes to keep them mum and they return without fulfilling their duty. These days, clothes are dyed in Pali district of Rajasthan and poisonous material emitting out of the workshop is mixed with water; and the polluted water creates problem for the healthy and innocent residents of the villages. People living in the vicinity of the Atomic Power Plan of Rawatbhata in Kota district have become hunch-backed due to pollution through effluents of uranium emitted from the Plant. We have to pay attention to these problems of the affected people. Therefore, I was saying that the Government should make joint schemes keeping in view the welfare of labourers and management as well as the ecology and environment of the area.

I would like to say one thing more. The Government will make laws for the labourers in the organised sector, but we have to think about the labourers in the unorganised sector. In the Metropolitan cities like Delhi, lakhs of labourers dwelling in slum clusters are engaged in construction work. Will such a type of law be effective for them in case they meet accident while working in high rise buildings? Has any arrangement been made by the contractors and construction companies for the labourers, who work in hard and miserable conditions. We have to pay attention in this regard too, and their working conditions should also be improved.

Sir, I am very distressed to point out one thing that our Government considers itself to be a welfare Government and tall claims are made about safeguarding the interests of labourers and farmers, but when an International Conference of labour was held in June 1988 and it was decided at 75th session of that Conference that special laws would be made about health and security of labourers the representative of the Government expressed his inability to do so. The name of the conference was "Recommendation 175". Perhaps 175 recommendations were made in it. There is already Compensation Act, Employee State Insurance Act, Public Liability Insurance, besides factory Act etc. At present there is no need of its implementation.

Sir, through you I would like bring to the notice of the House that every year 5 to 7 people die while mining in stone quarries in the vicinity of Delhi and many hon. Members raise the matter of providing compensation to the next of kin and their families in this House. But no attention has been paid by the Government to their problems. Who will pay for their insurance cover? Have the owners of these quarries been bound for it? Will they also come under the purview of this Act? The Government should also pay attention in this direction.

It should safeguard the interests of workers working in mines, water, quarries, air pressure area or in units manufacturing explosives. You must not have forgotten the incident of Sivakashi. Young children make crackers in Sivakashi in Tamilnadu. Many people died in an accident there and no one survived in some of the families. Attention should be paid to the miserable condition of such people as well as to the areas in which they are situated. Godowns storing explosives one located in areas where there are residential colonies. We can imagine the loss which may occur by an accident in the godowns situated in residential colonies. Insustral accidents are becoming a hurdle in the progress of the nation. The nation loses crore of rupees due to industrial accidents. Many lives are also lost in these accidents. Besides, innocent people living in the vicinity also become victim of the accident. Then there is pollution and other far-reaching effects because of these industries being located in residential colonies. Many people become disabled in these accidents. The

Public Liability Insurance (Amendment) Bill should be passed and the Government should remove the shortcomings of this Bill ...(*Interruptions*)...The amount of Rs. 25000 is very less and out of it Rs. 12500 are for medical expenses. We will have to think over it seriously. At the time of fixing insurance premium their liability should be unlimited. I strongly support this Bill for its futuristic spirit of the interests of labourers. In this Bill the provisions should be made for the workers working in mining, construction or those who get electrocuted and in a motor accident or drown and security for the workers who are engaged in demolition of house. If this is not done the Government will have to introduce amendment again to remove the shortcomings I conclude with these words.

[*English*]

SHRI GRORGE FERNANDES: Mr. Chairman, Sir, I am speaking under rule 340.

[*Translation*]

I propose to adjourn the debate. I have raised a very important question. At that time, I did not have this page of the Bill which I just now brought from the Library. It is draft fo the original Bill.

[*English*]

Rule 340 says:

> "At any time after a motion has been made, a Member may move that the debate on the motion be adjourned."

The Public Liability Insurance Act, 1991 was passed by the Houses of Parliament, by Lok Sabha on 7th January, 1991 and by Rajya Sabha on 9th January, 1991. There is a seal on this saying that it was assented to by the President on 22nd January, 1991 and this is Act No. 6 of 1991.

[*Translation*]

This Bill was passed by Lok Sabha and Rajya Sabha and was welcomed in every quarter.

16.00 hrs.

The Government and the Hon. President gave so much importance to the Act that the latter gave his assent to it within 11-12 days of its being passed by the Parliament. I am again coming to the point I had raised earlier. The Act which has been brought forward here by the hon. Minister Shri Kamal Nath today, bears his signature dated 17th of February.

[*English*]

The aforesaid Act was passed by this House on 7th January, 1991, by the Rajya Sabha on the 9th of January, 1991 and that was assented to by the President of India on the 22nd of January, 1991. We should at preciate the importance given to this Act.

The aforesaid Act could not, however, be implemented on account of insurance companies not agreeing to give insurance policies for unlimited liability of the owners.

[*Translation*]

Earlier also, a Bill was brought forward in this House in this regard. I have said earlier also that it is direct breach of privilege of this House and is a case of contempt of the House. The letter which I have sent to you just now, states that.

[*English*]

The Public Liability Insurance (Amendment) Bill, 1992 seeks to amend the provisions of the Public Liability Insurance Act, 1991. The Act has been assented to by the President on 22nd January, 1991. In the statement of objects and reasosy, the Minister states that the Amendment Bill had to be introduced because of the insurance companies not agreeing to give insurance policies for unlimited liability as visualised in the

[Sh. George Fernandes]

original enactment. This act of the insurance companies is tantamount to gross contempt of Parliament and also an insult to the coffice of the President of India.

I hereby move that the House take up this matter of breach of privilege under rule 222. As the matter has grave implications, I urge that it be taken up immediately.

[*Translation*]

And in this context, I have made a motion to adjourn the debate on the Motion under rule 340. My Privilege Motion is....

[*English*]

MR. CHAIRMAN: I would not allow you to discuss this matter unless leave is granted to you. Therefore, I have allowed you to speak so far. But hereafter if you want to develop the whole subject, I would not allow.

SHRI GEORGE FERNANDES: I am seeking your leaves. You must allow to make my submission.

MR. CHAIRMAN: You have raised two questions. The first point is under rule 340. You want that the debate on this motion be adjourned. Secondly, you are also basing your plea regarding contempt of the House, the notice for which you have just now given.

Let me deal with this first, If I allow you, then you can go ahead. The whole House knows and I also know what you are raising. Therefore, at this stage, I will have to give my views.

SHRI GEORGE FERNANDES: You must hear us before you give your ruling.

MR. CHAIRMAN: The point whether you can raise both these questions, I will have to deal first and then I will have to decide.

SHRI GEORGE FERNANDES: At the moment, I am at rule 340 for adjournment of debate on the motion.

MR. CHAIRMAN: You yourself mix Rule 340 with the privilege motion.

SHRI GEORGE FERNANDES: I have brought in the privilege aspect only to make the point clear and to draw the attention to the seriousness of the matter.

MR. CHAIRMAN: You are basing your plea under rule 340. On the basis of the notice, it has been raised.

(*Interruptions*)

MR. CHAIRMAN: Let me deal with this now. I would not allow you to discuss the whole thing. Because otherwise, there is no point in rejecting or accepting it If it is to be accepted or rejected, at this stage, I must give my ruling. If I allow you to discuss the whole thing and then either I accept or reject, then there is no point in giving a ruling

(*Interruptions*)

MR. CHAIRMAN. I do not want any help. I will deal with whatever Shri George Fernandes, the hon. Member, has argued

(*Interruptions*)

SHRI RAM NAIK (Bombay North): I am on a point of order. My point of order is that the debate is not going according to the rules. The most important point has been highlighted by hon. George Fernandes. In addition to that, whether this original Act, Public Liabilities Insurance Act, 1991 has come into operation or not is a moot point. Now that has been raised.

MR. CHAIRMAN: You are raising some other point than what Shri George Fernandes has raised. Point of Order must arise out of what Mr. George Fernandes has raised.

SHRI RAM NAIK: Whatever Shri George Fernandes wants to say, he has said (*Interruptions*)

MR. CHAIRMAN: You sit down please. I cannot hear everybody at a time. I will hear the Members one by one. I will allow you to speak if it is necessary.

SHRI RAM NAIK: The first sentence of para 2 of the Objects and Reasons says:–

> "The aforesaid Act could not, however, be implemented on account of the insurance companies not agreeing to give insurance policies for unlimited liability of the owners."

The point is the Act has not come into operation. Here the Government says that insurance could not be given. Insurance could only be given when the Act comes into operation. The Act has not come into operation. And the Government comes forward and tells us that this could not be implemented only because the insurance companies have not agreed.

What has been stated in the Act and what has been stated in the Objects has been highlited properly by hon. George Fernandes.

So, I am supporting his contention and, at the same time, whatever is going on, is not according to the rules and, that is why it is in the interest of the Lok Sabha that the debate should be stopped and suspended and the hon. Minister verifies it.

Of course, before you give your ruling, you may naturally ask the hon. Minister to clarify.

So, it is desirable in the interested of Lok Sabha proceedings that the matter should be suspended here and the debate should be carried afterwards. That is my submission.

MR. CHAIRMAN: I would like to know from the hon. Minister whether the Act had come into force.

SHRI KAMAL NATH: I could intervene. Mr. George Fernandes has raised a point. I would like to dispel some of the misgivings on this.

I do on principle agree with him that an Act passed by Parliament cannot possibly be flouted and, if it is flouted, it does amount to a privilege issue and is contempt of the House.

I will endeavour to explain why it is not so.

The Act passed in 1991 made it incumbent on industries to take out a policy.

This Act did not make it incumbent on the insurance companies to give the policy. (*Interruptions*)

MR. CHAIRMAN : Will you first make it clear whether the Act came into force?

SHRI KAMAL NATH: The Act came into force on 1-4-1991.

SHRI SYED SHAHABUDDIN (Kishznganj): What is the indication?

SHRI KAMAL NATH: After that, the insurance companies did not refuse. They submitted that this unlimited liability which they have been exposed to, if that so, then this House could make adequate budgetary provision for it. Because, if there is a question of unlimited liability, all the appropriations, financial appropriations are done by this House only. So, they submitted that the question of unlimited liability has not been appropriated by this House itself. This matter was considered. I would also additionally add that this matter, in discussions earlier, was considered whether the liability of an Insurance Company could be limited. It was at that time, when the Act was passed by this

[Sh. Kamal Nath]

House in 1991, considered that could perhaps be done under the rules to be framed. But subsequently it emerged that it could not be done under the rules. That means, the limitations could not be provided under the rules, So, the Insurance Companies and the Finance Ministry then held discussion with us asking what is the way out. I would certainly agree with Shri George Fernandes if the Insurance Companies said: "No, we are not willing to give any insurance." The point that he made was that in my statement I have said that this Act could not be implemented on account of the Insurance Companies not agreeing to it. They were not agreeing in the given situation at that time. If they were directed by the Finance Ministry to do so, they would have done so.

SHRI GEORGE FERNANDES: It makes more complicated. Is it not getting more complicated?

SHRI KAMAL NATH: Let me finish. You can certainly have your say. So, the Finance Ministry then the Banking Division -- also felt re-insurance is not possible in the case of unlimited liability, re-insurance is not possible and in such cases it has to be quantified. So, it is that which led to this amendment. It is not a question of the Insurance Companies flouting it; the Insurance Companies not agreeing to it. It is not the case. It was their submission.

SHRI RAM NAIK: Have the rules been framed?

MR. CHAIRMAN: This submission is for my purpose.

(*Interruptions*)

SHRI GEORGE FERNANDES: I wish to make a submission. I cannot stand unless you sit down.

MR. CHAIRMAN: There cannot be a full debate on this.

SHRI GEORGE FERNANDES: I am not asking for a full debate.

MR. CHAIRMAN: Some points were raised. I can decide now on hearing the clarification of the Minister.

SHRI GEORGE FERNANDES: No. This is precisely on the Minister's clarification that I want a clarification. Mrs. Menaka Gandhi in her concluding speech in the House when this Bill was moved, and when it was passed on the 7th January, 1991 said like this. Here is our Law Minister who made a very impressive speech and praised the Minister for having brought forward that very historic Bill. The words were his own. Mrs. Menaka Gandhi says:

"We have held intensive discussions over the last three years with the General Insurance Company and other Associations. The Bill is based on a scheme determined by an Expert Committee. It will be our endeavour to keep the scheme going on so that immediate relief could be provided to the victims".

[*Translation*]

Mr. Chairman, Sir, as the hon. Minister is saying that an Act has been passed and it will not be incumbent on them. With due regards to you, I would like to submit that you have been an eminent lawyer. Mr. Chairman, Sir if the Act Says that insurance cover is to be provided by the general insurance companies and they are under the Government's control, will you say that

[*English*]

it, was not incumbent on them to insure?... (*Interruptions*)

[*English*]

SHRI A. CHARLES: I am on a point of order.

MR. CHAIRMAN: No point of order, please. I have followed his submission. Now it is for me to decide. Shri George Fernandes, you are repeating what you have already said.

Now, a point of order was raised by the hon. Member Shri Ram Naik saying that the proceedings are not going on according to the rules because as the Act had not come into force further amending Act cannot be moved in this House. There is no substance because the hon. Minister has already made it clear that the Act came into force on 1st April, 1991. So, this is absolutely in order. There is no substance in the point of order raised by the hon. Member Shri Ram Naik.

As far as this contempt of the House notice given by the hon. Member Shri George Fernandes is concerned, I submit that according to rules, the notice should have been given by 10 O'Clock today. And if it is given after 10 o'clock tomorrow as per Rule 223.

(*Interruptions*)

SHRI RAM NAIK (Bombay North): It can be given in the House also.

(*Interruptions*)

MR. CHAIRMAN: Let me finish. Why do you intervene when I am giving my ruling? Now there is a proviso which says that provided further that the Speaker may, if he is satisfied about the urgency of the matter, allow a question of privilege to be raised at any time during the course. If you are relying upon this, I say that there is no urgency as far as this matter is concerned because this Bill was circulated on 26th February, 1992 and it was introduced on the 3rd March, 1992. There was sufficient time for the hon. Member to give notice. The Statement of Objects and Reasons were also circulated. The statement on which Shri George Fernandes is relying upon was known to him and to the whole House even on 26th February, 1992. So, I do not consider that there is now any urgency. The notice will be dealt with by the hon. Speaker according to Rule 223 and if leave is given by the hon. Speaker, it may be considered by this House.

(*Interruptions*)

SHRI GEORGE FERNANDES (Muzaffarpur): In the context of your decision now, I press for my motion under Rule 340.

MR. CHAIRMAN: As far as motion under Rule 340 is concerned, our Rule 341 says:

> "If the Speaker is of opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon or decline to propose the question."

I decline to propose the question in view of what I have decided as far as this matter of contempt of the House is concerned.

Now Shri P. C. Thomas to speak.

(*Interruptions*)

SHRI P.C. THOMAS (Muvattupuzha): Sir, I am glad to support this Bill which is intended to give security to people who come across accidents by handling of hazardous substance in factories. Though the Bill was passed in 1991, as you have just seen, there were some anomalies which stood in the way of poor persons getting the benefit of it in the normal manner.

I am happy that the amendments which have been proposed by the hon. Minister and which have moved here would give proper relief to such persons. It is of utmost interest to note that though the principle of the Act is to help the poor persons who come across neighbouring sides of factories or who are incumbent to come across the mishandling or even accidental handling or such types of misuse by the factory owners, yet it is sorry to note that till now proper

[Sh. P.C. Thomas]

arrangements have not been made for continuous losses that have been taking place.

16.19 hrs.

[SHRI RAM NAIK *in the Chair*]

I am coming to another point. The question of continuous losses caused by mishandling or handling of hazardous substance in the factory is a matter of great concern which also, I would submit, should be taken note of by the Government at this stage. I have also an example to quote. There is a factory called Fertilisers and Chemicals Travancore Limited (FACT) (*Interruptions*) I would like to have the ears of the Minister. The Minister may kindly lend his ears to me.

I would like to submit there are cases where continuous losses are occurring to the neighbours living in the surroundings of the factory. There is a specific case which I can submit and about which, I had already put some parliamentary questions, to which I had the opportunity to get some answers. It was about the handling of hazardous substances by such factories. I was pointing one factory specifically, that is, Fertilisers and Chemicals Travancore Limited, (FACT), Cochin, whether the people residing nearby are, for the past several years, suffering due to some affluents which come out of the factory. When I had put a question on this in the Parliament, I received the answer from the hon Minister that was true and that environmental pollution is being caused by the affluents which are coming out from the FACT, Cochin division. But it was unfortunate to know, when in this Parliament session, I had put another question for which I got a proper answer, that the factory owners have not taken proper care in this matter because the answer that was given shows that though there has been continuous losses to the neighbours, the loss has not been assessed so far.

So, when we think of this very important Bill which provides for disturbances caused to persons in the locality also, by way of handing of hazardous substances by the owners of the factories, the Minister may kindly think of bringing a new legislation in this respect also for the factories are not even ready to assess the losses which are being caused to the neighbours for several years and for which no compensation is being paid for the last several years.

There is absolutely no law for this purpose. There may be the Civil Court where the persons can go; and I understand that in this particular case, some persons have gone to the Civil Courts and they have got decrees in their favour. But the poor persons in the locality are not even in a position to go in for cases. When the Minister has been so punctual to bring about this important amendment at this very stage of the session, I request That the Minister may also take into account these things and bring in a proper legislation to give proper compensation for the continuous losses which are occurring in this way.

I do not like to take much of the time of the House, and also all the other points which I also share, have already been submitted.

I once again congratulate the Government for having brought this Bill. And I hope that the new Fund which has been formulated will really serve the purpose of giving proper relief at proper time to the persons who are succumbed to or who are getting injured by the use of hazardous substances in the factories.

[*Translation*]

MR. CHAIRMAN: Shri Chhedi Paswan.

SHRI KAMLA MISHRA MADHUKAR (Motihari): Mr. Chairman, Sir, this Bill, which has been brought forward by the Government in this House...(*Interruptions*)

[English]

MR. CHAIRMAN: Is it over?

[*Translation*]

SHRI KAMLA MISHRA MADHUKAR: Mr. Chairman, Sir, I am not Chhedi Paswan. I am Kamla Mishra Madhukar.

[*English*]

MR. CHAIRMAN: Since you have already started speaking, you may kindly continue. Do you want to speak?

[*Translation*]

SHRI KAMLA MISHRA MADHUKAR: Mr. Chairman, Sir, a general consensus has been arrived that Government brought forward this Bill only because the 1991 Bill was not implemented. It also becomes clear that even though laws are enacted, they are not implemented. It is proved by the non-implementation of law earlier enacted by the Government.

The Government enacted a law. but it was forced to bring an amendment Bill as the General Insurance Companies did not agree to implement the same. It is clear that the government has become unsuccessful in its objective. The same has been said by the Members of their side also. It shows that the appeal is not comprehensive. The Bill has been brought in a haste. As a result, they had to bring an amendment bill. again. Therefore, the debate on this Motion should be adjourned and all of its aspects should be considered to make it more comprehensive.

There is a factory in Champaran district. Two–three incidents have taken place there. But in spite of those incidents, the factory did not abide by the anti-pollution laws made by the Government How that small factory can come under the purview of the law. Hazardous substances are being used in cracker manufacturing factories also. If something untoward happens there, how they will be given protection under this Bill, because it has been provided in this Bill that there should be an insurance of Rs. 50 crore, The Government has not paid attention towards this fact it is not possible for small businessmen to get such a big insurance policy.

According to the new liberalisation policy of the Government, the foreign companies are being invited to set up business here and there is a rapid growth in the number of multinational companies. What provision has been made in this Bill in this regard?

Some 3-4 days back, I have read in the newspapers that the surface of earth is getting hotter any by the year 2025, the level of underground water will rise up by 26 metres. Your intention is to provide immediate relief. Although the intention is clear, this Bill cannot achieve the desired aim. The Government should reconsider as to how to make it more effective. The important Bill that is related to the lives of labourers should be reconsidered

Shri George Fernandes has rightly said that it is the failure on the part of the Government that the law could not be implemented, though it was enacted. The hon. Minister should tell, what is the guarantee to implement the law after it is enacted. You are going to make a new law after amending it The Government should pay attention to r Secondly, the suggestions given by the hor Members should be taken into account an then a new Bill brought. I realies that your intention is good. But merely good intention does not serve the purpose. One has to make full arrangements to implement the law The Government should give us the guarantee of all these things and tell us how the Bill will be implemented. Besides, what would be the attitude of the Government towards small entrepreneurs? The Government have promoted multi-national companies in India. Have they been kept under the scope of the Bill? Nobody has forgotten the

. [Sh. Kamla Mishra Madhukar]

Bhopal tragedy till now. It killed several people. A legal suit has been filed if the courts of America. The relief amount decided to be given to the families of deceased and injured is insufficient. The victims of tragedy are dying of starvation. Nobody is taking care of them. In my opinion, the Bill brought forward by you should be strictly implemented. It is my request.

[*English*]

SHRI A. ASHOK RAJ (Perambalar) Sir, on behalf of the All India Anna DMK Party, I would like to say a few words about the Public Liability Insurance (Amendment, Bill.

First, an Act was enacted in 1991, namely the Public Liability Insurance Act with the object of providing immediate reliefto the victims of accidents that might occur while handling hazardous substances. After dealing with the accidents, the Clause was changed now. Now it is said that:

> "Accident means an accident involving a fothitous or sudden or unintended occurrence while handling any hazardous substance resulting in countinous or intermittent or repeated exposure to death of, or injury to, any person or damage to any property but does not include an accident by reason only of war of radio–activity".

Sir, I would like to suggest that when we are enacting the laws, it is better to make the words very clear so that at a later date when people approach the Courts, they should not be misunderstood and that can be done very easily. So, what I request is that we can avoid use of such lengthy sentences so that when we are taking it to legally constituted Courts, t can be done very easily.

As regards this Bill is concerned, I really 'come this Bill, as we see the objectives of ' ich are very good. At the same time, we are seeing that so many cases are there which are not attended to.

The Act could not be implemented on account of the insurance companies not agreeing to give insurance policies for unlimited liability of the owners. Really it is a wondering thing. When it is the Government companies, it has to act. Why they are refusing is a strange thing. Anyhow, that fault is remedied here. Now, it is like this: The liability of the insurance companies should be limited to the amount of the insurance policy, though the ownver's liability shall continue to be unlimited under the Act. So, it is changed now. In order to help, the Government has come forward to create the environmental relief fund. But when this environment relief fund is set up, I request that necessary precaution should also be taken to safeguard the interests of the workers.

In the Act, there is a change. It says:

> "the insurer who is required to pay any amount in terms of such award and to the extent specified in subsection (2B) of section 4, shall, within a period of thirty days of the date of announcement of the award, deposit that amount in such manner as the Collector may direct;"

I request the hon. Minister to say about the period within which the award should be given. It is not important. Sometimes the people are taking long period. Actually the beneficiary is not at all benefited by that. So, the time-limit should be given for that.

MR. CHAIRMAN: The time allotted for this Bill is over. Now there are still four or five speakers. I would request every speaker to complete within five minutes. Your five minutes are over now. Please try to conclude as early as possible.

SHRI A. ASOKARAJ: According to subsection 8, it should be clearly done. Mr. Rasa Sing Rawat from the BJP was referring to the children's employment in the cracker units of Tamil Nadu. Our leader, Chief Minister Puratchi Thalaivi Jayalalitha was taking necessary steps to safeguard the interests as well as the safety of the children.

Lastly, I would like to know about the workers working on casual labour in unauthorise units. We are speaking only about the workers in the authorised units but we are not telling anything about them. In order to enable workers understand properly about the benefits, we should give publicity. Considering the number of accidents that are occurring throughout the length and breadth of the country, the publicity can be given through Radio, TV and newspapers. An advisory committee should also be set up. It should be associated with the representatives of social organisations, with officers from the insurance companies and the general public. Implementation of the entire scheme would depend upon the adequacy of the insurance cover. Hazardous units are supposed to calculate the risk. There are guidelines as to how the insurance premium is to be calculated. Hence the medical expenses should also be increased.

SHRI PRITHVIRAJ D. CHAVAN (Karad): Mr. Chairman, Sir, I rise to support this amendment Bill. This Act, which has been hailed as historic legislation, has it genesis in the worst industrial tragedy of Bhopal. Indian Judiciary has pronounced some landmark decisions in the Bhopal compensation case and also in the Delhi Oleum Leakage Case, where the principle of no fault liability was established, In the oleum leakage case, Shriram Fertilisers were held absolutely liable. Though this Act was passed in January, 1991, it could not be given effect simply because General Insurance Corporation could not insure with unlimited liability. This issue was just discussed in the House and the Chair had given a ruling. The Minister has also explained. The general insurance companies in India are after all public companies. They have to conduct the insurance business according to the principles of insurance and they are responsible to the Parliament. No insurance company can conduct its business when the liability is not know. They would not even know what premium is to be charged. This lacuna is sought to he corrected in this amendment of the Act. Section 2 seeks to clarify certain definitions. Particularly the definition of the 'accident' and definition of the 'owner'. I have a few things to say on that, but I will come to it later. The main part is the amendment of the Section 4 which limits the liability amount to what is expressly written in the contract and also puts the minimum and maximum limit on such amount. The minimum amount being the paid-up capital of a company. The maximum limit has been put as Rs. 50 crores. There have been some objections to this Rs. 50 crore limit and I agree with some of the Members because large plants today can easily have a paid-up capital of , let us say, Rs. 500 or Rs. 1000 crores. A unclear plant can have a paid-up capital much larger than that. So, why limit the liability to Rs.50 crores?

But Sir, there is a point. We are now going to put this additional liability on the industrial establishments, which had been set up long time back,, to pay the premium. If the premium is calculated on Rs. 1000 crores, or RS. 500 crores, then premium could become a huge or asuntand their prof Liability would be affected. I request the hon. Minister that this provision should be looked at afresh. You could have a limit of Rs. 50 crores for old companies but in the case of new undertakings which are going to come up tomorrow, and particularly with the liberalised Industrial Policy, for the MNCs which are likely to come in, please raise the maximum limit on the paid-up capital. It can be Rs. 100 crores or Rs. 200 crores or own Rs. 500 crores.

The other amendment to Section 4 to provide many to sheate Relief Fund. Section 7 also is amendment and it seeks to prevent the owner from disposing of the assets to escape liability. There can be no argument about this. This is a very welcome provision.

[Sh. Prithviraj D. Chavan]

The new Section 7 (A) is to create the Environment Relief Fund.The House must welcome this historic enactment to come into effect. But I have some suggestions to make. I will not take much time of the house, but discuss suggestions.

My problems are with some definitions. First of all, definition of 'accident' is sought to be changed. I have no problem with the definition of accident which precludes accidents by reason of war. But why preclude accidents of radio-activity. It means that the Government wants to avoid paying compensation. In case of nuclear accidents. I do not exactly know what tghe Government wants. We all know that the nuclear accident has a potential of causing the biggest disaster. We know about the Three Miles Island in the United States and the Chernobyle accident in Russia. Let us hope that it does not happen in India. But why are we trying to preclude radio activity eccidents or nuclear accidents? I cannot understand this point. The original Act defines handling and limit it to transportation by vehicles only. I cannot understand why this limitation? In the Environment Protection Act, the definition of handling includes transportation by all means. Now, why, in this Act, transportation by vehicles only has been kept? Are we to say that handling by some other means like cart of something is not to be included? This part also needs to be seen.

Thirdly in the definition of hazardous substances, the Government has brought in quantity now.I cannot understand why quantity is brought in. We have a very clear definition of the hazardous substances in the Environment protection Act. Now, by bringing in concept of quantity, Government will define a hazardous substance by the executing rule making.

There is one more problem in Section 4 in deciding the maximum limit of insurance in case of partnership firms. How are you going to find out the assets of these firms as these firms have no paid-up capital? who is going to decide about it? Is it going to be decided by the insurance companies or the advisory committees ? It needs to be clarified in the rules.

The original Act gives time of one year to a company to get the liability insurance. I think this time is too much. It should be done within three months.

Another point which had been debated when the original Act was passed was about exemptions with the Act seeks to give to the Central and State Governments. This is highly discriminatory. It appears to violate Article 14 of the Constitution which ensures equal protection to everybody. I request the Government that local bodies State and Central Government owned corporations should be deleted. You can have some powers exemptions of State and Central Government departments but not for Corporations.

Finally, I would like to say that the amount of compensation is very small in the Bhopal Gas case, the Supreme Court has given something like one to three lakhs of rupees for the victims. Even thought it is an immediate relief, the amount of Rs. 25,000 is too meagre.

There is one other point. It is stated that the Collector is going to decide the extent of compensation in the case of injuries. How is the Collector going to decide whether it is a permanent partial disability or a permanent total disability. Even the Supreme Court jurists have nor been able to decide the extent of injuries in the Bhopal gas tragedy. Then, how is the Collector going to decide this? This point needs to be clarified.

Lastly, I would like to mention that Rs. 6,000 for damage to property 'today's cost of living is nothing. This figure needs to be changed. This can be done by the Government through delegated power.

On the whole, it is a very welcome Act which needs to be put into effect immediately and I request the House for its total support for this legislation.

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Chairman Sir, I thank you for giving me a few minutes but I have a few amendments. I would not like to take too much time of the House.

MR. CHAIRMAN: Right now, you may speak on the amendment as well.

SHRI SYED SHAHABUDDIN: Right Sir.

I would like to place the sequence of events before you. The Act was enacted and a notification was issued. And after that, I presume, as prescribed under the law, various industrial concerns approached the Insurance Company with proposals of insurance. Now, there is only one General Insurance Company and it appears that it refused to honour or accept these proposals. It is not yet clear and I would like the hon. Minister to clarify. Why was it that the objections that were raised at this stage by the Insurance Company did not come to the notice of the Companies and the Government during the there years of proceeding discussions? I would also like to know as to who or what was the real factor behind it. We are advised that the real situation was this that the Indian Insurance Company, viz. the GIC is not under-writing its own policies. It is being under-written by a foreign multi-national or by a group to foreign multi-nationals. I would like the hon. Minister to clarify this point. Why is it that a company which has the monopoly of all the general insurance business in this country cannot be self-sufficient unto itself? Why must it rely on a under-writer who is for removed from our shores? And on the dictation and refusal of those under-writers, it seeks to defy a legislation duly enacted and notified by the people of India. This is the question that I am raising. I am not pressing the issued privilege. I would like the hon. Minister to clarify this point. Did the insurance company, facing the situation arising out of the reluctance of foreign companies over which they have no control, come to the Government and say, "Sorry, this is the position we are in. Either you liberate us from the multinational, or allow us to defy this piece of legislation."? Then, I would also like to know from the hon. Minister as to how much money was involved. How many proposal are involved which have not yet been implemented under the law which remained as a dead letter?

Now I would like to raise the question of limitation. There are two categories of people and the Bill is not clear about it. There are manufacturers of hazardous substances and there are the users of hazardous Substances. Almost every indusry uses some hazardus substance in one way or the other. Surely, a clear distinction can be made between the liability of a manufacturer like the Union Carbide and the liability of a small scale industrialist who is using sulphuric acid in the industrial process. But the law makes no such distinction. My own view would be that as for the manufacturer, the liability should be unlimited and as for the industrial user, the liability may be limited. This distinction may be made on a rational basis. We cannot treat all or them alike. Therefore, I feel that the law as it stands and the Bill that has come before us, lacks clarity and a proper rational basis of classification.

Now, the hon. Minister tells us that it is for affording immediate relief and not that is not a question of compensation. First, I question this observation. There is a very nebulous line between relief and compensation. In fact relief is now being ordered by severaal High Courts in cases of personal injury as a matter of right, as a matter of obligation Relief can be the first stage of compensation, the first installment of compensation. Therefore, a sharp distinction cannot be made on that point. But assuming that we take the hon. Minister's statement at its face value, he is very anxious but at the same time he has

[Sh. Syed Shahabuddin]

taken nearly 14 months to come before tha house with this amendment while the clouds released by the Bhopal gas disaster continue to poison our environment.

Sir, I would like to raise the question of ordinance, which I raised yesterday. The Government has fallen into the habit of using its ordinance making power. What was the immediacy? When did the Insurance company plead inability to act under this Act, under this legislation; what was the date of decision as the matter again perhaps was a matter of consultation between various Departments concerned, and if the decision date was 31st March, surely, when the Parliament was going to meet in the last week of February, there was enough time for this bill to be presented to the House *suo moto* and not for the regularisation of an ordinance which was already promulgated. Therefore, I would like the hon. Minister to clarify this point because I find that time and again we are faced with ordinances on which we have got no control.

My final point is that there are certain inaccuracies in drafting. I do not understand even the definition and I have submitted three small amendments to that effect. It says, "Accidents mean an accident involving etc. etc., an occurrance while handling any hazardous substance." Now, handling is a verb which requires a subject, a doer. It is just not clear. Sometimes it is totally accidental and sometimes it can be man made, it can be the fault of a worker, fault of the management that a pipe has rusted and it simply exploded. Therefore, instead of using an active verb perhaps better drafting would have been through the use of a passive verb saying that in the process of a hazardous substance being handled something occurs. I am not here to teach five points of grammar but I do believe that our standard of drafting is going down and much litigation is arising because of the poor and inaccurate drafting.

Next it speaks of exemption of accidents caused by war or radioactive substances. The hon. Minister may let us know whether he includes accident caused by civil commotion or civil disturbance. Is he prepare to apply this law in case of injury to person and property caused by a civil commotion?

My third point is that I simply do not understand this phrase 'Environmental Fund'. There is a separate Environment Protection Act. This is merely, as the hon. Minister has explained a fund to provide relief for the victims of explosions arising out of the use of hazardous substances. I think again there is lack of clarity. I do not think a law should be passed which should be prima facie unclear. Therefore, Sir, with these words I place my views before the House. I think the hon. Minister should review this piece of legislation and should come back to the House to seek our approval.

MR. CHAIRMAN: Yes, Mr. Minister.

SHRI NIRMAL KANTI CHATTERJEE: (Dumdum) Sir, there is another speaker from our party. I hope his name has skipped your attention.

MR. CHAIRMAN: I do not have any other name.

SHRI NIRMAL KANTI CHATTERJEE: Sir, we had given Shri Mukherjee's name.

MR. CHAIRMAN: All right, Shri Ajoy Mukherjee may speak.

SHRI AJOY MUKHOPADHYAY (Krishnagar): Mr. Chairmen, Sir, the time is very limited and I shall be very brief.

Sir, the point raised by the hon. Member Shri George Fernandes, I am in agreement with that. But, since, the Chair-Person, that is the presiding Officer, has given a ruling, I am not questioning that ruling. But the question is, why this Bill has been brought in? Is it due to the general insurance companies' not agreeing to give insurance policies for unlimited liability of the owners or is it a step for clearing the path of foreign multinationals to come in the service sector? This point must be made clear. Without raising any question about the good intentions of the hon. Minister, many questions have come up. Because, the Bhopal Gas Tragedy is still fresh in our memory. The multi-national company, Union Carbide India limited was responsible for deaths of thousands of persons and the colossal loss of property and unprecedented damage to the environment. But they have not been properly punished or the victims have not been compensated in real terms.

Now, in the background of the industrial policy of the Government of India, everything is being relaxed in the name of liberalisation. No licence is necessary. Even the locational licence has been given a go bye. So, the danger to the people of this poor country is increasing. My point is that this Bill should be re-drafted because in defining the accident, it has been started and I quote: "Accident means an accident involving a fortuitous, or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or intermittent or repeated exposure to death of, or injury to, any person or damage to any property but does not include an accident by reason only of war or radio-activity." You have excluded war or radio-activity. If there is an accident, in nuclear plant then it will not come under he purview of this Amendment Bill. This is dangerous. In the Act itself, Central Government has the power. By issuing a Notification, they can exempt from the operation of Sub-Section 1 "any owner, namely, the Central government or the State Government or any Corporation owned or controlled by the Central Government or the State Government or any local authority..." So, if any accident takes place in a public sector undertaking or in a Government department, than the people who will be insured or who will die will not be compensated. I think, this is something which is absurd. So, all these things require changes. Moreover, now-a-days, when the Government is bent upon removing the distinction between the public sector and private sector through its so called new policies, then the public sector and the Government departments must come under its purview.

17.00 hrs.

The rationale of the Act was all right. But the Act has not come in operation. The Bill was enacted in 1991 and thereafter not a single application has been made in terms of that Act. Now you have come here with this Public liability Insurance (Amendment) Bill. So, there is every apprehension that this Bill, if enacted, will not be implemented in future also.

Moreover, the copensation which has been proposed here is too meagre; and the big companies, big multinationals will be spared; and small fries will be hard-hit; they will come under the net of this Bill. I think this is highly objectionable. The intention might be good. But the Bill has been drafted in such a way that the people who handle, the poor workmen who handle hazardous things, will not be secured at all; and the people who are residing in the localities of these companies, the mebers of the public who are residing in the locality of these companies, will not be benefited, they will not be spared at all.

With these words, I oppose the Public Liability Insurance (Amendment) Bill and request the Minister to bring a coprehensive Bill before the Parliament. Thank you.

MR. CHAIRMAN: Now the Minister will reply to the debate.

SHRI KAMAL NATH: I am thankful to the hon. Members for asking valuable suggestions. At the outset, I would like to reiterate the points made by some of the friends that the legislation passed by this House was flouted. The experience of Shri George Fernandes on the Floor of this house is undoubtedly-much more than I and any of us. I am equally conscious that if such a situation was there, I would have not have let it happen. I did look at this matter as to what is the reason for them-the General Insurance Companies on a legislation passed by

[Sh. Kamal Nath]

both Houses of Parliament and having received Presidential Assent-not doing it?

After having gone into the facts-prior to this, it has gone to he Cabinet also-I did look at that aspect; it struck me and more so it struck very easily Mr. George Fernandes and many others. But, that is not the case. What happened was when the discussion was held on the concept of the legislation with he GICs, this unlimited liability issue did not come up. When this Act came into being, and when certain aspect of that legislation was discussed with GICs, there was an impression that we could correct it under the subordinate Legislation, under the rules to be laid down.

It was only in July 1991 that we received the first communication from the General Insurance Companies not defying it, but stating that under the present system where there is no appropriation-the approprialon made by this house for...

SHRI SRIBALLAB PANIGRAHI (Deogarh): Was this not isubialised at that time?

SHRI KAMAL NATH: This was not visualised at that time. So, their opinion and their submission was that taking on this unlimited liability would, in case of a tragedy like Bhopal, really liquidate the Insurance Companies. It would not serve the end of the insurance policy itself. So, if the Government or if the Finance inistry so desired it could be done. If this House is willing to provids unlimited liability this house can very well appropriate an unlimited liability.

In the discussion there was another question to this. the question being re-insurance. Re-insurance of unlimited liability is not in insurance parlance. It does not happen. Discussions were held with the Finance Ministry and the Department of Banking and with the insurance company. But then it was considered, what the use was of having interim relief if there is a ceiling on it. Interim relief, if it is a requirement, it is a requirement. If we have to have interim relief we have to have it.

SHRI SYED SHAHABUDDIN: Who was the re-insurer? Which was the company which was supposed to be the re-insurer, or underwriter?

SHRI KAMAL NATH: I am afraid, the Finance Minister will have to answer this. This is a question which could be rightly posed to the Finance Minister. As hon. Member Shri Shahbuddin would agree, whether we should have-reinsurance at all and whether the re-insurer should be X, Y, A or B is a question for the Finance Ministry to look into.

SHRI GEORGE FERNANDES: Just one question, Mr. Minister. Will you deny that the re-insurer is a foreign agency, meaning a foreign company?

SHRI KAMAL NATH: I do not know I am afraid the Department of Insurance does not come under me. I wish I could answer this. Neither can I assert it nor can I deny it.

SHRI SYED SHAHABUDDIN: Considering their request, you could have asked this question.

SHRI KAMAL NATH: We considered not who the re-insurer was; but whether re-insurance was required. Re-insurance is an important element of insurance because if there is a heavy liability and if the insurance company does not have re-insurance they will not be able to meet the liability under that insurance. So, it is always good to know-at least I would think so-that it is good to know that the insurance company has got reinsruance. It only re-assures us much more.

Then, after that, when these discussions were carried out, they were concluded in December-the question was raised by Shri Girdhari Lal Bhargava and some other Members,- then the question arose, about the need for this Ordinance. The choice before me was to either come up with the Ordinance to ensure that I would like to share this with the House-the Indian companies do not come back and say that there is not enough time. It was for the companies to take out the insurance by the 31st March; because there was a time limited prescribed that the insurance policies must be taken out by the 31st march. It was because of that, I thought, even a few days, would give us some leverage to ensure that the companies take out this insurance. I did not want to lose one whole year and come back and give these companies dealing with hazardous chemicals more time, because there was obviously-as it was explained-then a charge on the companies because for them not to have this insurance is very good. They have to to pay this out their revenues. So, that is why, I chose to have the Ordinance and thought that we should not lose a day to see that these companies do not come back to me and say that there is not time enough to take out this insurance. That was the necessity for the Ordiance. That is why we sought a Presidential Percimation in this regard.

SHRI SYED SHAHABUDDIN: How many policies have they registered from the date of the Ordiance till date?

SHRI KAMAL NATH: I would not be able to give this information now.

SHRI P. C. THOMAS (Muvettupuzha): That is why they are opposing it-for one year.

SHRI KAMAL NATH: But the intention was to get on with it as soon as possible. The intention was not to lose time up to the 31st March, 1992.

One of the points which has been made is that this is not adequate. This Act, for which I have come seeking an amendment to this House, deals only with interim relief. When there is an accident and an immediate relief is sought to be paid, who is to pay-either by the Chief Minister or the State Government or the Prime Minister, from his Relief Fund or the Central Government. It does not happen. And in the process of trying to find out as to who is going to pay, the District authorities of the place where the accident has taken place had to run in all directions seeking funds from somewhere, whether it is the State Government or the Central Government. There is no hard and fast fund and there is no composite fund from which this could be paid. That is why, this legislation of 1991 was enacted for providing interim relief.

Shri Shahabuddin has said that there is a dotted line between relief and copensation. What he missued out was the word ' interim. This interi relief is to provide an immediate relief. When somebody has been injured, he needs money and his wages have been stopped. It does not cover the workmen. The workmen have another Act. They have an umbrella of another Act. This covers he non-workmen, people who are outside the factory and who do not come under the other legislation. So, this Act of 1991 is only for the interim aspect of relief. It is not a relief. It is an interim relief. The question as to what will be the final relief, whether it is called 'compensation' or by whatever name, is a separate issue altogether. We are at the moment dealing with the amendment to the Act, which only deals with the interim aspect of it. So, it was necessary to prescribe a tie limit. In this Amendment, a time limit has been prescribed as 30 days. No questions-is there any negligence; is their willful negligence; is their anything irregular?-will be asked. The fact that an accident has taken place is good enough. And the Insurance company will have to remit to the Collector within thirty days the amount determined by the Collector on the basis of medical reports.

One question was raised as to how will the Collector know. The Collector is the senior most official of a District. There can be no better person than him to evaluate from the medical authorities, from other such authorities, what the impact is. Once the accident has taken place, the insurance company will be required, without any questions being asked to remit the amount to the Collector within thirty days. So, the Collector knows by birtue of his own that there is a fund available. We considered another possibility

[Sh. Kamal Nath]

that if tha limitations provided under the Act for the paid-up capital of Rs. 50 crores, he extent of the policy taken out is not adequate, we kept that safeguard also. We have chosen to create an Environment Relief Fund. Amount to Environment Relief Fund will be paid at the time of taking the insurance policy and it will be credited by the insurance companies to this fund. So, in the insurance policy, it is not limited. This impression... (*Interruptions*)

SHRI V. DHANANJAYA KUMAR: What is the machinery for recovery of the unlimited liability of the owner in case of big accidents? There is no provision in the Act.

SHRI KAMAL NATH: Sir, the liability of the owner is not limited. The liability of the Insurance Company is limited. This is the point we have to understand.... (*Interruptions*)

SHRI V. DHANANJAYA KUMAR: What is the machinery exactly for recovery of the money from the owner in case of unlimited liability? Is he be driven to the Civil Court?... (*Interruptions*)

SHRI KAMAL NATH: There are other legislations and we have provided that he cannot dispose of his assets. We have provided this safeguard. The focus is not on determining how we do this or how we do that. The focus is that the people who are affected get the interim relief. The focus is on that. So, while creating a limited liability, a determined liability for the insurance company, the liability of the factories, of the industrial units has not been made limited. Excess amounts required outside the value of the policy will come out of the Environment Relief Fund. This Environment Relief Fund will be built up over the course of time. We have said that the surcharge on the insurance premium which will go towards the Environment Relief Fund, will not be in excess of the premium but it will be equal to his. So, this Fund will develop, this Fund will expand and this would lead to an adequate reserve and an adequate resource for providing for any shortfall which may occur.

A point was made that this will be too costly for small units. For the small units, the policy will be limited to their paid up capital. So, it is not that this will have an adverse effect on them. I think it is their duty to have such a policy in case of an accident. What will be taken into consideration at the time of taking out the policy will be the nature of the hazardous substance they are dealing with. It is not that there will be a standard premium. The nature, the risk involved will be quantified. So, all this will be considered and the small units will not have difficulty in this. I feel so, Sir.

Another thing which has been mentioned is about training programme, etc. There are training programme conducted. There are disaster management plans for major units, for hazardous units. For other large projects, we are insisting from my Ministry for disaster management plans, etc.

One of the points made by one of the mebers was that now with the liberalisation policy, a large number of multinationals will come up with healthy polluting units. i would like to assure the House that we will not allow industries which are not environmentally compatible. As we know, all such industries require an environmental clearance where hazardous material is involved.

A reference was made to some World Bank Report saying that hazardous chemicals will be dumped into India. We are signatories to the Basel Convention and there are constratints and restraints in that. So, I do not think that such an eventuality will come into being.

Shahabuddinji has raised the question of handling, as it is being defined... (*Interruptions*).

SHRIMATI MALINI BHATTACHARYA (Jadavpur): Have you been able to present Union Carbide fro using hazardous materials even after the Bhopal disaster took place?

SHRI KAMAL NATH: Sir, the question is not of preventing. In the course of manufacture, hazardous chemicals are used. That is a fact of life. If that is the will of this House that we do not want any industry in the country which deals with hazardous chemicals, I am afraid, a large part of our industries will have to be shut down.

As I was replying to Shahabuddinji, we will be bringing in under the hazardous substance rules, 179 chemicals which are above the threshold limit. So, under the hazardous substance rules, 179 chemicals are being specified. if this House so wills that we should not have any manufacturing units dealing in hazardous chemicals, it will mean closure of almost 60-70 percent of our industry.

SHRIMATI MALINI BHATTACHARYA: The point is whether they are maintaining the precautions and the safeguards.

SHRI KAMAL NATH: The Union Carbide plant at Bhopal is closed. Because it is closed, they are not using any chemicals. That is in relation to Union Carbide.

Another point made by Shahabuddinji has been on some definitions and on whether civil riots will be exempted. We believe that civil riots is something which can be foreseen by industrial units and they could and should take adequate safeguards against such eventuality. We have only eliminated war. That is done normally in insurance practices.

SHRI SYED SHAHABUDDIN: Sir, in all the policies which are taken by a shopkeeper or a businessman, this clause is there that the insurance does not cover war or civil commotion. My point was that do you intend that this liability should be there; or otherwise the law is not clear. That is my only point. You must decide whether an accident in which a hazardous substance comes to pollute the atmosphere and cause injury because of a civil disturbance, then will that come under the purview of this law?

SHRI KAMAL NATH: We feel that we have envisaged that the industrial units should-and they can-take into account eventuality of civil disturbance and in such case they should build adequate safeguards.

SHRI SYED SHAHABUDDIN: I am happy.

SHRI KAMAL NATH: Sir, taking that into consideration we have not exempted the question of civil disturbance. We have only exempted a situation of war.

SHRI AJOY MUKHOPADHYAY: What about radio activity?

SHRI KAMAL NATH: Where the question of radio activity is concerned, the common insurance practice is that accidents by nuclear and radio active material are not coming for insurance cover. This is the practice being followed. I think that this is the best practice and it should be in conformity. As soon as insurance companies start giving the insurance policies covering radio activity, then we shall also have the same thing.

One of the points which have been made, in the course of this debate-though a bit outside-is the question of Montreal Protocol and UNCED Conference. I would, very briefly, like to assure the hon. Members hat India's interests will be protected. There is no question of us being pressurised or subverted by any of the developing countries. I can assure the hon. Members that none of the weapons of the developing countries-aid, trade and debt-will be allowed to be used for us to give any concessions or for us to accept any conditions or stipulations in any of the conventions which may be reached.

SHRI AJOY MUKHOPADHYAY: Will you stand the pressure of the Finance Ministry?

SHRI KAMAL NATH: I think the Finance Ministry and the Government are very environmentally conscious. It is not a question of standing pressure. Our Government will be facing the situation collectively.

(*Interruptions*)

THE MINISTER OF STATE OF THE MINISTRY OF COMMERCE (SHRI P. CHIDAMBARAM): Please pay attention to what he is saying.

MR. CHAIRMAN: Please do not disturb the Minister.

SHRI KAMAL NATH: There is no question of us being pressurised. As we all know the UNCED Conference is being held in Brazil. It is going to be, perhaps-I do not want to say perhaps-I say 'shall' be the biggest Conference ever held and the hon. Prime Minister will be leading the Indian delegation. I reiterate the assurance that we will not be compromising on any conditionalities or stipulations.

In conclusion I would like to reassure some hon. Members, who made some points...

SHRI GEORGE FERNANDES: Are you trying to play a joke at the expense of the Prime Minister on the conditionalities?

SHRI KAMAL NATH: There is no question of a joke. It is the Prime Minister's policy which I am implementing.

One of the points made by my hon. friend was about the problems being faced in the Fertilisers and Chemicals, Travancore (FACT). He has brought this to my notice earlier also. I would like to assure that I will send a central team to go and examine this issue. I will get this investigated and see that corrective action is taken. One of the points which was expressed was the liberalisation and relaxation which are taking place whether in Industry or in Commerce and I may say that they are not a reflection of liberalisation or relaxation on the environmental front.

SHRI RUPCHAND PAL: Sir, I made a point about the 'H' Acid industry, because of which drinking water in large areas of Rajasthan like Udaipur and other places has become totally polluted and has become poisonous. What about it?

SHRI KAMAL NATH: Sir, I possibly cannot react to specific cases. But the hon. Member is very right that H-Achid has been a problem. H-Acid has been banned for production in the manufacturing countries, but not banned for use. So, this-H-Acid is being manufactured in India, it is not a question of H-Acid alone, it is a question of many chemicals like this and many chemicals are coming to our notice because with the development of science a very small quantity of toxic chemicals can cause enormous damage. Previously you required a very large quantity of chemicals.

SHRI RUPCHAND PAL: The chemicals which have been banned in the western countries are being manufactured here.

SHRI KAMAL NATH: There are some chemicals which have been banned. We are exaimining this issue of how to deal with chemicals which have been banned for manufacture, but not banned for use. We are exaiming this in detail. There is a question of closing or not closing the industry here. We are exaiming it in to initality, we will have to take a holistic approach on this.

I would like, in conclussion, to assure the hon. Mebers that this liberalisation or relaxation is certainly there, but it is not at the cost of environment, it is not and shall not be. I would seek cooperation from all sections of this house towards passing this legislation. I think this Amendment today will enable us to implement it satisfactorily. All aspects have been examined and I am happy to say that some of the anamolies which have come up, the difficulties we have got, we have been able to correct them and I would dispel the doubts expressed by some Members as to what is the guarantee that this would now be implemented. I can assure the House that after having had another look, after examining it indetail, this Act will now be implemented after the passing of the Amendment. Thank you very much.

SHRI SRIBALLAB PANIGRAHI: Sir, I have just a point to be clarified by the hon. Minister. We well appreciate the anxiety and the sincerity of the Government to give immediate relief to the victims in such cases. But, Sir, the procedure provided for deciding the cases by the Collector is the Civil Procedure Code. He will record the evidence and in that process also lawyers will appear. Sir, it may delay the disposal of cases.

SHRI KAMAL NATH: I will dispel this doubt. In the rules to be provided I am conscious of the problems of such kind of situations. In the rules to be fraud we are specifying, 'irrespective of claims for re-claims or whatever it is by anybody'. We are specifying a time limit.

SHRI SRIBALLAB PANIGRAHI: Three months time limit is there. But if the Civil Procedure is adopted, I think it will not be within three months that it can be settled and therefore, some sort of summary procedure can be gone through.

SHRI KAMAL NATH: One of the aims and objects of the Bill is to away with all that, not to get into civil claims. So, that will be adequately taken care of in the rules that the District Collector will merely make an assessment and in the circumstances he is the best person to make an assessment. Once he makes that assessment, the Insurance company will have to remit the amount to him within 30 days. It is not a question if the District Collector on a specific case fails, I don't think why he should fail if there has been the accident, and he is the best man on the spot to make certain assessment, but there will be no question of any delay being caused by any of the acts or by the Civil Procedure Code or anything of that sort.

[*Translation*]

MR. CHAIRMAN: Shri Girdhari Lal, Please speak in brief.

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Chairman, Sir, I shall speak in brief. Usually I speak less.

MR. CHAIRMAN: Mr. Bhargava, the hon. Home Minister has to make a statement. That is why I am requesting you to speak in brief.

SHRI GIRDHARI LAL BHARGAVA: Sir, if this is the matter, I would like the hon. Home Minister to make his statement first. After that, I will speak.

MR. CHAIRMAN: No please. There are not many amendments to it. Let us conclude it first. After that the hon. Home Minister will make a statement. You please speak.

SHRI GIRDHARI LAL BHARGAVA: Mr. Chairman, Sir, I request that the hon. Home Minister may make his statement first. After that I will speak.

MR. CHAIRMAN: This Bill has to be sent to the other House also. Therefore, you should start your speech immediately.

SHRI GIRDHARI LAL BHARGAVA: Mr. Chairman, Sir, first of all, I would like to draw the attention of the hon. Minister to the statutory objection raised by Shri George in the beginning.

[*English*]

> "The aforesaid Act could not however be implemented on account of insurance company not agreeing to give insurance policy for unlimited liability of the owners."

[*Translation*]

It is true that the former Minister Shrimati Maneka Gandhi had got this bill passed in the House after deciding all the points but the insurance company did not agree. It is a contempt of the Parliament, the supreme body in India. In spite of that you have brought this Bill today. You have not replied satisfactorily. I would like that no mistake should be committed on your part because your name is Kamal Nath. Kamal (Lotus) was our election symbol and you are the Master of lotus. If your name is vanished, our

[Sh. Girdhari Lal Ghargava]

name would automatically vanish and then ours would be an awkward position. I am your well wisher. You have removed all the lacunae taking it into account from every angel. There is no lacunna in it. But time is all powerful. Let us see what happens.

The Bill you have brought is good, but there are some lacunae in it about which I would like to make submission. The owner shall deposit the money equal to the premium in the Relief Fund. My submission is that the Fund will be attractive and the insurance company and the owner will be covered in it if the Central Government provides grants equal to the premium to the Fund and people will praise you. You may consult the hon. Finance Minister. We may pass the Bill tomorrow. At present the Ordinance is in force.

Secondly, it is not clear as to how to recover money from the owner. It has been mentioned that the property cannot be transferred. Nothing in detail has been said in this regard. This is the lacuna.

There is one major lacuna which I feel and perhaps you might be also feeling. If a person dies, the Collector would give Rs. 25,000. But Rs. 12,500 would be given for one's medical treatment in case one's leg or arm is broken. Why have you put this restriction on the Collector.

Mr. Chairman, Sir, my submission is that the Supreme Court has held that there cannot be a restriction on the acount to be given to the third party. This is not my decision. It is the judgment of the Supreme Court. The liabilities of the insurance company should be unlimited. Only then it would do good to the country.

Hon. Minister, I have already said that I am your great admirer. So if you accept my points it will be very good. There is no Minister in the Cabinet like you. If you accept my point, I will withdraw the resolution for the disapproal of the Ordinance. This matter should not work as a hinderance between you and me. Our Chief Whip is also of the view that if you accept my point, I will withdraw the resolution which is there for the disapproal of the Ordinance. Otherwise, it would not be proper if division takes place. Therefore, I would like to request to consider my constructive suggestions. After that I will withdraw the resolution.

SHRI KAMAL NATH: I would like to request Shri Bhargavaji that though he has made suggestions but it would have been better if the had gone through he Bill deeply. He has suggested that the grants should be provided by the Centre. In this context, I would like to say that no such situation would arise when the insurance limit is crossed and even the Environment Relief Fund which is being formed, is not able to provide relief. In case any such situation arose, the Central Government would bear a hand. The Central Government, which is the Government of the Congress Party, always stretches its hand forward.

SHRI GIRDHARI LAL BHARGAVA: I am very much afraid of the hand (which is the election symbol of Congress party). This hand is very dangerous. Please do not move it on. You just talk about Kamal (Lotus), (the B.J.P's election symbol).

SHRI KAMAL NATH. I think you are not afraid of 'Kamal'. We will be able to pass it by May. This ordinance will be null and void on April 3. So it is essential to pass it before 3rd April. I request Shri Bhargava to recalculate his amendments for suggestion. I would like to make it clear what we are passing is not a Bill but it is only an amendment Bill. This is not 1991. Had you given these suggestions in 1991, it would have some-what beneficial. Today we are passing only some amendments to enforce the 1991 Bill. So I think there is no need to circulate these 3-4 amendments for suggestion.

SHRI GIRDHARI LAL BHARGAVA: The hon. Minister has assured to accept my suggestions. I hope... (*Interruptions*) There should be no such mistake in future and if you intend to introduce an amendment, please introduce the comprehensive Bill in a constructive way...(*Interruptions*) There is nothing to laugh in it. It is a serious matter. I have moved the Motion to declare it null and void by the permission of Chief Whip, I withdraw it after the hon. Minister's assurance.

[*English*]

MR. CHAIRMAN: Would you like to withdraw it?

SHRI GIRDHARI LAL BHARGAGVA: I seek leave of the House to withdraw the Statutory Resolution.

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his statutory Resolution.

SOME HON. MEMBERS: Yes, yes.

The Statutory Resolution was, by leave, withdrawn.

MR. CHAIRMAN: Now we come to the Motion for consideration of the Bill. There are amendments to the Motion. Shri Girdhari Lai Bhargava.

[*Translation*]

SHRI GIRDHARI LAL BHARGAVA: Mr. Chairman, Sir, I am not putting pressure. The statement will come at half past five. I am devoted to the chair and obey it.

[*English*]

I seek leave of the House to withdraw my amendment No. 1.

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his amendment.

SOME HON. MEMBERS: Yes.

The amendment No. 1 was, by leave, withdrawn.

[*Translation*]

PROF. RASA SINGH RAWAT (Ajmer): Mr. Chairman, Sir, I will conclude with one point. I would like to know the names of the insurance companies which have written letters and raised the objections. Please provide some details of the references if any, about that correspondence. So we may be able to come to know the basis of their denial.

MR. CHAIRMAN: Would you like to withdraw it?

PROF. RASA SINGH RAWAT: Mr. Chairman, Sir, according to your order I am prepared to withdraw. But this House must know the facts on what ground it was denied because it has been passed by this House. I seek leave of the House to withdraw my amendment.

[*English*]

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his amendment.

SOME HON. MEMBERS: Yes.

[*Translation*]

The amendment No. 3, by leave of the House, withdrawn.

[*English*]

MR. CHAIRMAN: Now I shall put the consideration motion to the vote of the House. The question is:

> "That the bill to amend the Public Liability Insurance (Amendment) Bill be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now the house will take up Clause by Clause consideration of the Bill.

Clause 2

SHRI SYED SHAHABUDDIN (Kishanganj): I beg to move:

Page 1, lines 12 and 13-

for "While handling any hazardous substance *substitute* "in the course of hazardous substance being handed' (5)

page 1, line 15—

after "war" *insert* " or civil disturbance" (6)

MR. CHAIRMAN: Are you pressing your amendments?

SHRI SYED SHAHABUDDIN: In view of the clarification given by the hon. Minister, I seek leave of the House to withdraw my amendments

MR. CHAIRMAN: Has the hon. Member leave of the House to withdraw his amendments.

SOME HON MEMBER: Yes

The amendments No. 5 and 6 were, by leave, withdrawn.

MR CHAIRMAN: The question is:

"Clause 2 stands part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 5 were added to the Bill.

Clauses 6 and 8 were added to the Bill.

Clause 1, Enacting Formula and the long Title were added to the Bill.

SHRI KAMAL NATH: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted

17.42 hrs.

BUSINESS ADVISORY COMMITTEE

12th Report

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTRY OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RANGARAJAN KUARMANGALAM). Sir, I beg to present the 12th Report of the Business Advisory Committee

17.43 hrs.

STATEMENT BY MINISTER

[*English*]

Video Casettes relating to assassination of late Shri Rajiv Gandhi

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN): I rise to take this statement in regard to video cassettes relating to the assassination of late Shri Rajiv Gandhi.

The special Investigating Team of the CBI which is investigating the case has so far seized 467 video cassettes one of which was found to be brand new and unused. The remaining 466 casettes have been viewed and are still being viewed by a team of investigating officers for identifying the frames that could be relevant to the case.